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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible God, thank You for the opportunity to share Your love and compassion with others. Guide us to those who need words of encouragement, and make us Your voice of hope in our world. Use us to bless others, and empower us with Your goodness and mercy.

Strengthen our Senators for today's work. Give them wise speech that will bring life and engender trust. Direct their steps on the roads they travel, and bring them safely to their desired destination. As they make decisions with potentially cataclysmic consequences, Lord, help them to count the cost.

Bless the many people who work with our leaders. Remind them often that their labors are not in vain.

Search our spirits and purify our motives. We pray in Your powerful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 13, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today we will return to the pending business of the Homeland Security appropriations bill. We have six amendments that were called up yesterday and are currently pending. The two managers have been working on the sequencing of amendments. Therefore, we should have an additional lineup of amendments that are expected during today's session.

As we stated at closing last night, we have two Senate delegations today, one attending the funeral of former Senator Gaylord Nelson and another delegation in Florida. It is lining up in such a way that we will have very productive debate over the course of the day, but we will be voting later this evening. I do not know exactly what time that will be. We will have the exact timing of these votes announced later today as we look at the appropriate schedules. I doubt that there will be voting before 7:45 or so tonight. We will be voting tonight.

I have said on many occasions that we will be finishing homeland security legislation before we leave this week. I

believe we have a good shot at completing that bill tomorrow night. I don't know what time that will be. We will go to another bill on Friday. That bill will be determined over the course of today.

The funding legislation we are currently addressing in the Senate is too important to not complete this week. We will be using debate time throughout the course of the day. We will have the votes this evening. We will have a very busy session tomorrow.

I also wish to take the opportunity to remind my colleagues we will have an all-Senate briefing this afternoon, for those who are interested, from 3 to 4 o'clock by Director Negroponte. I believe Secretary Chertoff will also be coming by as well.

### SUPREME COURT CONFIRMATION

Mr. FRIST. Mr. President, I have some brief remarks about confirmation of a new Supreme Court Justice.

As we all have witnessed, the process is off to a great start. Consultation is well underway between the President of the United States and the Senate. It is ongoing. The President and his staff are reaching out to Senators from both parties to listen to their suggestions, both in person and through phone calls. To date, the administration, the President and his staff, have contacted directly more than 60 Senators, more than two-thirds of the Democratic caucus, every member of the Judiciary Committee. The President's approach has been bipartisan and open and unprecedented in scope. I commend him for that effort.

As we look ahead, I encourage each Senator to reflect upon the nominee we will consider and the confirmation process we will undertake. As Senators, confirming a nominee to the Supreme Court is one of our highest constitutional duties. The new Justice, whomever the President chooses, will influence American law for years and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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years to come. He or she will impact the lives of millions of Americans.

As Senators, we should ask ourselves, What kind of Justice does America expect on the Supreme Court? I am confident President Bush will choose a qualified nominee who will make America proud, someone of demonstrated character and integrity, someone who is fair, intelligent, open-minded, and impartial; he or she will listen to the merits of every case and make a determination based on the facts, the law, and the Constitution, not driven to prejudge cases, predetermine outcomes, or advance a personal political agenda; the nominee will treat litigants and their attorneys fairly and with dignity and respect; and above all, this person will uphold the Constitution and be fully committed to equal justice under the law.

I am confident of all these things because every day I have seen the care, seriousness, and the thoughtfulness President Bush brings to this task.

In addition to considering the type of nominee America expects, I also encourage my colleagues to ask themselves, What kind of Supreme Court nomination process does America expect from the Senate? The American people, through their votes, have put their trust in us. They have entrusted us to govern as their elected representatives. History will reflect on the Senate's deliberations, how Senators conduct themselves, how we treat a nominee, and how we reach a decision.

We owe it to the American people to conduct a fair process that treats nominees with dignity and respect. It should include a fair hearing, a floor debate in which all views are heard, and then an up-or-down vote on the confirmation. This process should not become a trial. It is a process by which we examine the character and credentials of someone willing to volunteer to serve America on its highest court.

In the past, the judicial nominations process has been marked by obstruction, many times partisan obstruction, and attacks on the character and integrity of nominees. I hope we have put this painful and humiliating process behind us. Given the monumental role this nominee will play sitting on America's highest court, we need the best of the best legal minds. This requires a process that will not deter the best of the best from serving. The fair and dignified nomination process requires civility, requires common sense and some self-restraint.

As we consider the nominee who will soon come before the Senate, I encourage my colleagues to focus on questions that are relevant to the nominee's qualifications and experience, questions such as: Will the nominee be fair, independent, and unbiased? Will the nominee consider each case before the Court with an open mind, examining the facts, the law, and the Constitution very carefully? Will the nominee place the Constitution and the law above personal political ideology?

Will the nominee approach his or her role as a Justice as an interpreter of the law and the Constitution and not as a lawmaker who will legislate from the bench? Is the nominee qualified to serve on our highest court? Does he or she have the necessary experience to serve as a Supreme Court Justice?

These are the questions nominees should be asked to answer honestly and thoroughly. They should not be asked to prejudge cases or to speculate on how they would rule or not rule on a hypothetical scenario that may or may not come before the Court.

I look forward to working with our colleagues on both sides of the aisle in the coming weeks. We should work together to conduct the kind of confirmation process America expects from its elected representatives, a fair and thorough confirmation process that treats nominees with dignity and respect and confirms a new Justice before the Supreme Court starts its new term on October 3. I am confident the President will nominate someone who will make America proud, someone who will be worthy of this seat he or she will fill. This is what the American people expect, what our justice system needs, and what our Nation and the nominee deserves.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### SUPREME COURT NOMINATION PROCESS

Mr. REID. Mr. President, regarding the statement of my distinguished friend, my counterpart, the Republican leader, 90 percent of what he said is right on target. It is absolutely true that we need a process. That is why Senators HATCH and SPECTER have been working on this for several weeks prior to the resignation of Sandra Day O'Connor. The process is moving along very well.

I acknowledge that the meetings I have had with the President on this matter have been very productive. They have been good and are pointed in the right direction.

However, on a couple of things I disagree with my distinguished friend, the senior Senator from Tennessee; that is, we need to be very careful and put these problems we have had behind us, dealing with the so-called nuclear option. It is easy to throw words around like "obstructionism," but the fact is the vast majority of the President's nominees were approved easily. I don't know the exact numbers, but I believe 210 out of 219 were approved, and a number of them withdrew. The battles over 5 turned out to be 5 out of 219. We do not need words like that. We need to look at this in a positive sense.

There are times, as has been indicated in the recent debate that oc-

curred in the Senate, where certain nominees have to be viewed very cautiously and carefully. For example, the person the President has chosen to go to the United Nations has caused close scrutiny of this individual.

The other two people the President sent to the United Nations as our Ambassador are people who the minority proudly voted for. Ambassador Negroponte went through here very quickly. And then, of course, Jack Danforth, the former Senator from Missouri, whipped through here and was our United Nations Ambassador. John Bolton is a different story. We had to take a look at him. That is not obstructionism. We asked for certain information. It was not forthcoming.

So as I said, I agree with my friend from Tennessee that this is a process that needs to have the view of the American public, and they need to be proud of the work we do. I think we are headed in the right direction. I am cautiously optimistic we can move through this. I have given President Bush the benefit of every doubt that he is doing this with his heart in the right place. I have told him personally and in writing how much I appreciate his reaching out to me. And I continually will be optimistic until there is no need to do so.

It would be so good for the country if they could see the Senate at its best, moving a nomination that is a consensus candidate; that is, someone Democrats and Republicans both support to this very high, honorable position, a member of the U.S. Supreme Court.

I look forward to my continued consultation with the administration. I had a conversation yesterday with one of the President's representatives, his legal counsel. I am going to continue to do whatever I can to make this process move as quickly as possible, and not only as quickly as possible but as dignified as possible. And having done this, it would be a strong message for us to send to the people of America.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of H.R. 2360, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Byrd amendment No. 1200, to provide funds for certain programs authorized by the Federal Fire Prevention and Control Act of 1974.

Akaka amendment No. 1112, to increase funding for State and local grant programs.

Akaka amendment No. 1113, to increase funding for State and local grant programs and firefighter assistance grants.

Dorgan amendment No. 1111, to prohibit the use of funds appropriated under this Act to promulgate the regulations to implement the plan developed pursuant to section 7209(b) of the Intelligence Reform Act of 2004.

Durbin (for Boxer) amendment No. 1216, to provide for the strengthening of security at nuclear power plants.

Durbin (for Stabenow) amendment No. 1217, to provide funding for interoperable communications equipment grants.

Mr. GREGG. Mr. President, what is the regular order under the bill? What is the pending amendment?

The ACTING PRESIDENT pro tempore. The pending amendment is amendment No. 1217 offered on behalf of Senator STABENOW.

Mr. GREGG. Thank you. Today, Mr. President, we are going to try to continue to move forward on the Homeland Security appropriations bill. I hope Members, if they have amendments, will bring them to the floor so we can expedite this bill. I understand there are a number of Members who do intend to come to the floor, and we will look forward to entertaining their ideas.

#### AMENDMENT NO. 1124

Initially, Mr. President, let me send to the desk an amendment on behalf of Senator ENSIGN. I ask unanimous consent that the pending amendment be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. I ask that the amendment be reported.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] for Mr. ENSIGN, proposes an amendment numbered 1124.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To transfer appropriated funds from the Office of State and Local Government Coordination and Preparedness to the U.S. Customs and Border Protection for the purpose of hiring 1,000 additional border agents and related expenditures)

On page 77, line 20, insert "of which \$367,552,000 shall be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and" after "local grants,".

Mr. GREGG. Mr. President, I have sent the amendment to the desk on behalf of Senator ENSIGN. I do not necessarily support this amendment as the chairman of the subcommittee, but as a courtesy to the Senator, I wanted to send it up to get him in the queue. We look forward to having other Senators bring amendments forward, and we will try to assist them in getting time and votes.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENTS NOS. 1207, 1209, AND 1210, EN BLOC

Mr. SALAZAR. Mr. President, I send to the desk three amendments en bloc, Nos. 1207, 1209, and 1210.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes amendments numbered 1207, 1209, and 1210, en bloc.

Mr. SALAZAR. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

#### AMENDMENT NO. 1207

(Purpose: To provide for a report on the effectiveness of programs concerning State and local government emergency officials, and for other purposes)

At the appropriate place, insert the following:

SEC. \_\_\_\_ (a) Not later than September 30, 2006, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives that includes—

(1) the results of the survey under subsection (c); and

(2) a plan to implement changes to address problems identified in the survey.

(b) Not later than June 30, 2006, the Secretary of Homeland Security shall submit an interim report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives on the specific design of the survey under subsection (c).

(c) In preparing the report under subsection (a), the Secretary of Homeland Security shall conduct a survey of State and local government emergency officials that—

(1) involve enough respondents to get an adequate, representational response from po-

lice, fire, medical, and emergency planners on the regional, State, county, and municipal levels, and other State and local homeland security officials as determined by the Secretary; and

(2) identifies problems relating to the effectiveness and user-friendliness of programs in which the Department of Homeland Security interacts with State and local officials, including grant management, intelligence sharing, training, incident management, regional coordination, critical infrastructure prioritization, and long-term homeland security planning.

#### AMENDMENT NO. 1209

(Purpose: To require a quadrennial review by the Department of Homeland Security)

On page 100, between lines 11 and 12, insert the following:

#### SEC. 519. QUADRENNIAL HOMELAND DEFENSE REVIEW.

(a) IN GENERAL.—

(1) FREQUENCY AND SCOPE.—Beginning in fiscal year 2008, and every 4 years thereafter, the Secretary of Homeland Security shall conduct every 4 years, during a year following a year evenly divisible by 4, a comprehensive examination of the national homeland defense strategy, inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States with a view toward determining and expressing the homeland defense strategy of the United States and establishing a homeland defense program for the next 20 years. Each review under this paragraph shall be known as the "quadrennial homeland defense review".

(2) CONSULTATION.—Each quadrennial homeland defense review under paragraph (1) shall be conducted in consultation with the Attorney General of the United States and the Secretaries of State, Defense, Health and Human Services, and the Treasury.

(b) CONTENTS OF REVIEW.—Each quadrennial homeland defense review shall—

(1) delineate a national homeland defense strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive 5 or any directive meant to replace or augment that directive;

(2) describe the inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States associated with that national homeland defense strategy required to execute successfully the full range of missions called for in the national homeland defense strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland defense strategy at a low-to-moderate level of risk, and

(B) any additional resources required to achieve such a level of risk.

(c) LEVEL OF RISK.—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Director of National Intelligence.

(d) REPORTING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall submit a report regarding each quadrennial homeland defense review to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted.

(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include—

(A) the results of the quadrennial homeland defense review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security; and

(E) any other matter the Secretary of Homeland Security considers appropriate.

AMENDMENT NO. 1210

(Purpose: To express the sense of the Senate regarding rail tunnel security research)

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. RAIL TUNNEL SECURITY RESEARCH.**

(a) FINDINGS.—The Senate finds that—

(1) railroad tunnels, and underground stations have been identified as particularly high risk terrorist targets because of the potential for large passenger volumes, confined spaces, relatively unrestricted access, and the potential for network disruptions and significant economic, political and social impact;

(2) many rail tunnels have safety problems including structural deficiencies, ventilation problems, lack of communications equipment and insufficient emergency access and exits;

(3) there are more than 898 miles of rail tunnels in transit systems across the country;

(4)(A) security experts have identified a number of technology and training needs to prevent attacks on tunnels and to mitigate and remediate the impact of such attacks;

(B) technological needs include detection systems, dispersal control, and decontamination techniques; and

(C) training for emergency response to a variety of scenarios is also needed; and

(5) the Department of Transportation Transportation Technology Center in Pueblo, Colorado—

(A) is one of the Nation's largest and most advanced rail safety research centers in the Nation; and

(B) offers full-scale testing, dynamic modeling, performance monitoring, technical analyses, feasibility and economic studies as well as training classes to prepare first responders and test new safety technologies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Department of Homeland Security is urged to invest in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies; and

(2) employing existing Federal facilities in this effort can result in efficiencies and permit this important research to proceed at decreased cost to the taxpayer and with minimal interference with ongoing passenger and freight rail traffic.

Mr. SALAZAR. Mr. President, I rise today to address an issue that is perhaps the most important challenge of our National Government, and that is protecting the security of our people in this Nation, securing our borders, and making sure we have a homeland security that addresses the concerns of the post-9/11 world in which we live.

For 6 years, I had the honor of serving with 14,000 men and women who are peace officers in the State of Colorado. I worked with them to ensure that we

had public safety on our streets and to help in the development of the best strategies we could develop in creating a homeland security that addressed the war on terror and the threats from terrorism within the State of Colorado.

The legislation we are currently considering is legislation that is specifically intended to address that issue on a national level. While there can be no doubt we have spent billions of dollars on the issue of homeland security since 9/11, the recent events in London remind us all that we can never be too far from having this issue at the forefront of our radar screens.

It is with that approach that I would like to speak about these amendments, as well as the amendment I cosponsored with Senators LIEBERMAN and COLLINS yesterday.

I commend Senator COLLINS and Senator LIEBERMAN on their efforts to dramatically improve our Nation's homeland security grant process. I also would like to discuss my three simple and straightforward amendments to the Homeland Security appropriations bill.

Before I arrived in the Senate, I was Colorado's attorney general. I worked hard to establish greater coordination between law enforcement agencies at the local, regional, and State level. This is a complicated task because often what happens with law enforcement agencies is they work within the stovepipes of their own jurisdictions. So bringing law enforcement agencies together to make sure they are coordinating and providing the greatest degree of public safety has been one of the monumental challenges of the last several years.

Unfortunately, at a national level, there is often very little consultation with local officials. Too often, lawmakers in Washington develop Federal policy without taking advantage of the expertise of the people who are on the ground. Too many local emergency officials in my State feel that the Department of Homeland Security policies are dictated to them from above.

One of the first things I did when I came to Washington was to survey Colorado's emergency response officials to ask them what they thought about a variety of issues. Those responses were alarming. Those chiefs of police and sheriffs told me that 66 percent of Colorado's first responders faced significant problems using radio equipment to communicate with other agencies. Fifty-nine percent said that Federal grants are not going to the right priorities. Fifty-nine percent said that the Federal grants were not going to the right priorities. And by a 4-to-1 margin, Colorado officials feel unprepared to handle a weapon of mass destruction. That is 4 to 1 of people on the ground in my State feel they are unprepared to handle a weapon-of-mass-destruction attack within my State.

By a 3-to-1 margin, responders feel that antiterrorism information they

receive from the Federal Government is insufficient or not actionable. That is a 3-to-1 margin. So my survey at the bottom line says that we must do better in preparing our homeland to be more secure.

Senator COLLINS and Senator LIEBERMAN have sponsored, and we in this Senate last night adopted, a thoughtful and comprehensive piece of legislation that will make Americans safer. It will significantly increase the amount of Federal money targeted to high-risk States and cities while assuring that first responders in all States receive the necessary equipment and training to prevent and to be prepared for potential terrorist acts. That is an important balance.

We obviously have to focus money where there has historically been a greater threat. New York and Washington in the past have been targets, and there are other areas of the Nation that have been impacted. Likewise, in California, an attack on the ports of Los Angeles could cost the Nation's economy billions of dollars. We clearly need to step up security efforts in America's largest cities and in the port cities of our Nation.

However, in the past, we also have seen that the terrorists are constantly looking for targets of opportunity no matter where they lie. Whether it was the bombing of the USS *Cole* in Yemen or the Oklahoma City bombing or the hostage takeover in the Russian schoolhouse in Beslan or the bombing of hotels in Bali, the terrorists struck, and they will strike where they can. We cannot, therefore, make any assumptions about where the enemy will strike. If we can make New York a fortress, the terrorists may hit Philadelphia or Seattle or Denver or any of the rural communities which span the countryside of America. Our national security is only as strong as our weakest link.

This amendment, which I was proud to cosponsor, succeeds in maintaining that critical balance between assuring that our Nation's top cities are protected and that the entire Nation has the resources and infrastructure to keep us safe.

The amendment also takes huge steps toward reducing waste in Federal homeland security spending and giving State and local officials guidance and resources needed to improve long-term planning and grant administration. Its focus on essential capabilities and coordination of homeland security grants across the Federal agencies will help make sure we get the most bang for our homeland security bucks.

I was proud to work with Senator COLLINS and Senator LIEBERMAN to improve their already good amendment. My proposals included in this amendment would ensure that State and local officials have a seat at the table when Federal officials review the Homeland Security Grant Program. We task the Department of Homeland Security to

make grant applications as user-friendly as possible, especially for the smaller police and fire departments of our Nation. My changes would also stiffen requirements on States that they do proper long-term planning and administration.

Together these changes will make it much easier for State and local officials to work with the Department of Homeland Security. They should ease the burdens on local first responders and help make America safer.

My amendments to the underlying appropriations bill build on the spirit of Collins-Lieberman and on the knowledge I have gained from Colorado's first responders.

My first amendment would improve the Department of Homeland Security's long-term planning. Every 4 years, the Department of Defense conducts a Quadrennial Defense Review. This invaluable document paints a detailed picture of the threats our country faces and a comprehensive plan for how to confront those threats in the future. My amendment would simply require the Department of Homeland Security to do the same.

The Homeland Security Secretary would work with the Director of National Intelligence to identify the greatest threats to our homeland security. The Secretary also would consult with the Department of Defense and other Federal agencies on how best to work together.

This is not just another reporting requirement. It is a move toward rational, strategic, long-term planning that will empower the Department of Homeland Security and Congress to make better decisions to protect the American people.

My second amendment would build on the knowledge I gained from the recent survey in Colorado. It would require the Department of Homeland Security to conduct a nationwide survey of police, fire, medical, and emergency management officials about the problems they are experiencing with Federal grants, intelligence sharing, infrastructure protection, and regional coordination. The Department of Homeland Security would have to report the results to Congress and come up with a plan on how to address the problems the locals have identified. This survey would help ensure that our significant investments in homeland security are going to the right priorities and that local officials are getting better direction to guide their efforts.

This sounds like a simple task, and it is, but I promise you that when we get this survey back, we will all learn something new that will help us improve America's security.

My last amendment is a sense of the Senate in support of research on tunnel rail safety. We have known for some time that subway and rail tunnels are particularly tempting terrorist targets. For the cost of a subway fare, a would-be bomber has access to thousands of people crammed into a very small

space. A relatively small amount of explosives can cause many deaths and bring an entire city to a halt, as we have recently seen in London. That carnage in London last week showed that a handful of terrorists can strike subway tunnels and cause grave havoc for a city. Our prayers go out to the more than 50 people who perished during that cowardly attack. America has known the terrible pain of terrorism, and last week, Americans were all Londoners.

In America, there are more than 898 miles of rail tunnels and transit systems across the country. Many of our rail tunnels have structural deficiencies, ventilation problems, lack of communications equipment, and insufficient emergency access and exits. Detection systems, dispersal control, and decontamination techniques can greatly mitigate the effects of an attack, as can adequate training for emergency responders.

The Department of Transportation has long recognized the need to improve rail safety and has invested millions of dollars in researching new technologies and training first responders. The Department of Transportation's Transportation Technology Center in Pueblo, CO, is one of the largest and most advanced safety centers in the world. The Transportation Technology Center offers full-scale testing, dynamic modeling, performance monitoring, technical analyses, feasibility and economic studies, as well as training classes to prepare first responders and test new safety technologies. The center features 48 miles of test track and a variety of freight, passenger, and hazardous material cars, as well as other test vehicles. What the center does not yet have is the capability to simulate rail tunnel accidents. That is why the Transportation Technology Center's backers are now hoping to build a facility for underground rail security testing. This proposed complex of 1.5 miles of above-ground tunnels would simulate every major rail tunnel system in the country.

My amendment would not single out this or any particular facility. It simply encourages investment in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies. It would put the Senate on record for taking a small step forward in protecting the millions of Americans who depend on subways and passenger trains all across the country.

I urge my colleagues to support these three amendments, and I urge my colleagues to move forward in working on what is our most important agenda, and that is making sure we are doing everything we can to protect America's homeland from the kinds of attacks we saw on 9/11 or the attacks we saw last week in London.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first, I congratulate my friend and colleague from Colorado for his excellent statement and his leadership on this issue and so many other issues. Since coming to the Senate 6 months ago, the Senator from Colorado has demonstrated his compassion, intelligence, and ability to speak to the issues that people in this country desperately care about and desperately need. I congratulate him, once again, on having amendments that are very important for the families of our country.

AMENDMENT NO. 1217

Ms. STABENOW. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up my amendment No. 1217.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is pending.

Ms. STABENOW. Mr. President, I ask further unanimous consent that Senators LEVIN, CORZINE, AKAKA, DODD, and LAUTENBERG be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, one of the most important appropriations bills is before us now, and that is our Homeland Security bill. Certainly we are reminded again, because of what happened in London last week, that we on our soil are vulnerable and are looking to stop terrorists overseas.

Our goal, certainly the goal of our caucus, our goal as Democrats, has been to make sure Americans are prepared and protected both at home and abroad. That is what this bill is really all about. It is not a partisan issue. This is an American issue. All of us I know care about this issue, and we need to make sure this budget reflects the goals of making sure that our first responders are prepared, that all Americans are prepared, and that we are protected from terrorism in America. My amendment addresses a very important piece of that. We have come together in a bipartisan way to make sure that soldiers in America and Afghanistan have the most sophisticated technology so that they can be prepared to protect themselves and fight successfully abroad. Unfortunately, the same is not true at home for our police officers, our firefighters, and our emergency responders. Too many of them rely on outdated technology and equipment that is not integrated with our State departments, our transportation departments and our homeland security departments.

Even if we are defeating terrorists in Iraq, we are not providing the resources and the equipment at home to make sure that we are fully prepared to fight, succeed and, most importantly, protect our families and communities at home.

Too many of our police officers, our firefighters, our emergency medical services personnel and transportation officials are not able to communicate with each other. They have the basics.

That is what my amendment speaks to, the ability to make sure that every part of our emergency preparedness system has the ability to communicate with each other. Interoperability is the term often used.

Right now, they are not able to communicate with each other. How much more basic can we get than creating a way for everyone to be able to talk to each other, to literally be on the same wavelength as well as figuratively. Too many first responders, whom I have spoken to as I have moved around Michigan in the last 4 years, have said to me that their communications, alerts going up or down, often come from CNN. The communications are received from CNN before they actually receive them directly to their departments. This does not make any sense.

A June 2004 survey by the U.S. Conference of Mayors found that 80 percent of the cities that responded do not have communications equipment and the ability to communicate with the Department of Homeland Security or the Justice Department. My guess is that the people we represent in our States assume something very different, as they should. After September 11, 2001, everyone assumes that these things have been addressed, and yet they have not been addressed.

The survey also found that 94 percent of cities do not have interoperable capability between their rail facilities, their police, their fire, and their emergency responders. This is especially troubling, given what just happened and the tragic attacks on London's subway system last week.

Their survey also said almost half of the cities said that a lack of interoperable communications had made a response to an incident within the last year very difficult. Sixty percent of the cities said they do not have the communications capability within the State emergency operations center. I have spoken with police and fire chiefs across my State, and overwhelmingly they have expressed concern about this issue, as well as the fact that they actually have fewer police and firefighters in their departments now than they did before 9/11.

I believe we find ourselves in a very vulnerable situation for a number of reasons as it relates to homeland security, but a basic area that needs improvement, in terms of infrastructure, is our ability to have our communications systems connected so that our emergency responders can talk to each other and can respond quickly, both before something happens and during an emergency, and do it effectively.

This is a crisis now, not just a nagging inconvenience. Our lack of interoperable communications is a crisis in this country.

The September 11 attacks highlighted this crisis when New York police and fire personnel were on different radio systems and could not communicate. Over 50 different public safety organizations from Maryland,

Virginia, and the District of Columbia reported to the Pentagon that they could not talk to each other.

On more than one occasion now, we have had circumstances where we have been on the Senate floor, and there has come an alert to evacuate this very Chamber. We have been asked to move out away from the Capital complex over to Union Station or to other places around the city. We assume that folks are able to talk to each other, are able to communicate what is going on. Yet, unfortunately, the communication systems that need to be in place are not in place for full interoperable communications.

Nearly 4 years after September 11, 2001, the No. 1 request for appropriations that I receive each year from communities is on communication systems. This year, Michigan communities made over 41 requests. They requested over \$75 million for interoperable communications in this bill and in the CJS appropriations bill alone. My guess is, if I went to every community, they would gladly have a request for help to be able to be connected. We can do something about it, and that is what this amendment does.

Most estimates place the cost of equipping America's first responders with interoperable communications in excess of \$15 billion. In November 2003, the Congressional Budget Office testified before Congress that there is insufficient funding in place to solve our Nation's communications problems, and it would cost over \$15 billion to begin to fix the problem.

So my amendment begins that process by suggesting a 3-year funding stream. My amendment would provide the first year funding for that, \$5 billion for interoperable communications grants for America's first responders to provide a strong Federal commitment to the safety of our citizens. I might add, while that is a substantial sum of dollars, that is approximately what we are investing in Iraq each month. So my amendment would ask that we commit 1 month for America; 1 month for America's preparedness to protect the people of America; 1 month to be able to say that we have provided the resources, we have begun to make sure that we are prepared, that we are protected, that our communications systems are connected, and that we are doing all we can do to keep our families safe.

I urge the support of the Stabenow amendment on communications.

I see my colleague standing, I assume to make a motion, but I want to speak to one other amendment, briefly.

Mr. GREGG. Will the Senator from Michigan yield?

Ms. STABENOW. I would be happy to yield while retaining the floor, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. My hope is that we can accept the amendments of the Senator from Colorado, then we will have further discussion of the pending amend-

ment of the Senator from Michigan, probably with a point of order being made at that point, and then we would turn to the Senator from Massachusetts for up to 15 minutes. That is the game plan, hopefully. So when the Senator from Michigan completes her statement, I will proceed with that proposal.

Ms. STABENOW. Mr. President, I rise to speak to an amendment that Senator DODD will be offering on his and my behalf in the next hour, I am sure. This relates to the other piece of what needs to happen to make sure that we are thoroughly prepared and protected. Again, that is our goal, to be prepared and protected. That is what we are fighting for. That is what we are working toward. That is what we need to do together.

My amendment would invest in the interoperable communication so that everyone could speak to each other and be able to respond.

There is another amendment that Senator DODD and I are introducing that speaks to the larger question of whether we are providing all that we need to, to invest at home in our first responders and what they need to be successful. We know that right now, based on a report that was done back in the spring of 2003, there was a blue ribbon panel of experts, led by former Republican Senator Warren Rudman, that found the United States is drastically underfunding local emergency responders and, in their words, remains dangerously unprepared to handle a catastrophic attack on American soil. They recommended at that time a major investment over a 5-year period to fully prepare us so that our families and communities are protected.

After that report was given to us, Senator DODD and I came to the Senate floor 2 years ago and offered an amendment for the first year of that 5-year funding.

It was not passed. We came last year and offered it again. We stand today asking our colleagues, with an even greater sense of urgency, to finally pass this amendment so that we can begin that 5-year process of fully preparing our first responders and supporting them so that our families are protected. It is a major investment of \$15 billion this year. But when we look at what we are spending abroad, we cannot be just concerned about fighting terrorism in somebody else's country. We know we have to be prepared to fight it here. Yet we see hundreds of billions being spent in Iraq, being spent overseas. I supported those dollars so our troops are successful, so they have what they need, but that is not enough. If the troops on the ground in America—our police officers, our firefighters, our emergency responders—do not have the same commitment from us, why would we say we are going to make sure our troops have what they need overseas and then dramatically underfund what they need at home? It makes absolutely no sense.



This is way beyond anything that is viewed as a partisan issue because it does not matter, Democrat or Republican, when we look at the vulnerabilities for our families and communities for us right now, this is something we should all be rallying around. I hope that we are not in a situation looking back at some point and saying we should have done this but, rather, aren't we glad that we did.

The Rudman report that was given to us in the spring of 2003 found that, on average, our fire departments have only half the number of radios they need, and I spoke to that in my other amendment, only enough breathing apparatus for one-third of their firefighters. So one out of three gets breathing equipment. Police departments across America do not have the protective gear to respond to a WMD attack. Our public health laboratories lack the basic equipment to respond to a chemical or biological attack and most report that they are overwhelmed with testing requests.

Finally, our first responders do not have the equipment they need to determine what kind of hazardous material they may be facing. The administration's support for first responders has been on a steady decline. It is less in this budget than it was in last year's budget. That makes no sense.

For example, last year's funding for Michigan State homeland security grants dropped from \$47 million to \$29.7 million. In this budget, the administration eliminates the law enforcement terrorism training program, cutting another \$400 million from our first responders.

Last week's tragedy in London has again shown how important it is to be able to respond quickly and effectively, for them to be able to speak to each other, for us to be able to have enough personnel who can respond. Michigan has three of the busiest commercial crossings in the United States—approximately 3,200 miles of coastline, three nuclear powerplants, ports, and other numerous critical infrastructure that we must protect. Our homeland security needs are somewhere between \$1.4 billion and \$2.7 billion that we need to invest in every year, yet the allocation in this budget is less than \$30 million—again, down from \$47 million. That is not even close to what we need to be prepared and protected—not even close.

I have also spoken with police and fire chiefs across the State. Again, it is amazing to me. I do not believe the average person would believe what is happening until they talk to local law enforcement officials. When I talk to them, there are fewer police officers on the beat today than 9/11/2001. It is shocking. It is truly shocking, and I believe it is truly irresponsible.

Last month we spent about \$5 billion in Iraq and Afghanistan. We need to put this in perspective. If we take 3 months of what we are spending there, we can fully fund what the Rudman re-

port says is necessary for our first responders. I believe we cannot afford another day without acting on this and other critical areas of infrastructure need. This is about whether we are going to be committed to protect the people of America.

The two amendments about which I have spoken today address and would make sure that we begin to invest in being fully prepared in case of a terrorist attack here at home, and that our families are truly protected.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to respond to the Senator from Michigan, but prior to doing that, I yield to the Senator from Colorado so we can straighten out his amendments.

AMENDMENTS NOS. 1209 AND 1210, AS MODIFIED

Mr. SALAZAR. I ask unanimous consent amendments Nos. 1209 and 1210 be modified with the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1209, AS MODIFIED

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. QUADRENNIAL HOMELAND DEFENSE REVIEW.**

(a) IN GENERAL.—

(1) FREQUENCY AND SCOPE.—Beginning in fiscal year 2008, and every 4 years thereafter, the Secretary of Homeland Security shall conduct every 4 years, during a year following a year evenly divisible by 4, a comprehensive examination of the national homeland defense strategy, inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States with a view toward determining and expressing the homeland defense strategy of the United States and establishing a homeland defense program for the next 20 years. Each review under this paragraph shall be known as the "quadrennial homeland defense review".

(2) CONSULTATION.—Each quadrennial homeland defense review under paragraph (1) shall be conducted in consultation with the Attorney General of the United States and the Secretaries of State, Defense, Health and Human Services, and the Treasury.

(b) CONTENTS OF REVIEW.—Each quadrennial homeland defense review shall—

(1) delineate a national homeland defense strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive 5 or any directive meant to replace or augment that directive;

(2) describe the inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States associated with that national homeland defense strategy required to execute successfully the full range of missions called for in the national homeland defense strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland defense strategy at a low-to-moderate level of risk, and

(B) any additional resources required to achieve such a level of risk.

(c) LEVEL OF RISK.—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Secretary of Homeland Security in consultation with the Director of National Intelligence.

(d) REPORTING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall submit a report regarding each quadrennial homeland defense review to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted.

(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include—

(A) the results of the quadrennial homeland defense review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security, and

(E) any other matter the Secretary of Homeland Security considers appropriate.

AMENDMENT NO. 1210, AS MODIFIED

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. RAIL TUNNEL SECURITY RESEARCH.**

(a) FINDINGS.—The Senate finds that—

(1) railroad tunnels, and underground stations have been identified as particularly high risk terrorist targets because of the potential for large passenger volumes, confined spaces, relatively unrestricted access, and the potential for network disruptions and significant economic, political and social impact;

(2) many rail tunnels have safety problems including structural deficiencies, ventilation problems, lack of communications equipment and insufficient emergency access and exits;

(3) there are more than 898 miles of rail tunnels in transit systems across the country;

(4)(A) security experts have identified a number of technology and training needs to prevent attacks on tunnels and to mitigate and remediate the impact of such attacks;

(B) technological needs include detection systems, dispersal control, and decontamination techniques; and

(C) training for emergency response to a variety of scenarios is also needed; and

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Department of Homeland Security is urged to invest in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies; and

(2) employing existing Federal facilities in this effort can result in efficiencies and permit this important research to proceed at decreased cost to the taxpayer and with minimal interference with ongoing passenger and freight rail traffic.

Mr. GREGG. I ask unanimous consent the three amendments which are pending, by the Senator from Colorado, 1207, 1209, and 1210 be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 1207); (No. 1209), as modified; and (No. 1210), as modified, were agreed to.

Mr. GREGG. Mr. President, the Senator from Michigan has offered one amendment and intends to offer another amendment. The first amendment that is pending is her amendment relative to interoperability which would increase spending in this account by \$5 billion next year. The entire budget for homeland security, of course, is \$30 billion, so this would be a 20-percent plus-up in her amendment for the entire budget in one line item which line item does not exist. Interoperability is obviously a major issue of concern.

It should be noted, however, that the purchasing of communication equipment has traditionally fallen to the responsibility of and to the decision-making process of the local departments, whether they be fire, police, or first responders in the area of health. Equipment purchasing has been done by those departments over the years, city by city, town by town, State by State. The failure to have interoperability is not so much a Federal failure, it is a decision made at the local level for local reasons not to have interoperability. If a local police department wants to buy a type of communications equipment and the local fire department in the same town wants to buy a type of communications equipment and they decide to buy communications equipment that does not communicate with each other, that is a local decision. That equipment is physically in place. It is not as if these departments don't have the equipment. They purchased the equipment.

It is not the Federal role to come in and rebuy equipment for every police, fire, and health first responder in this country. That still remains a local responsibility to a large degree. However, we do as a Federal Government request that States put forward what is known as a plan of action relative to first responder coordination.

As part of their plan of action, a State can decide to fund interoperability grants to local communities. As part of the first responder initiative, that has occurred and is occurring across the country. In fact, within the first responder grants that have gone out so far, approximately \$1.8 or \$1.9 billion of that has been spent on interoperability activity by States deciding they wanted to pursue interoperability or communities deciding they wanted to pursue interoperability.

However, the concept that we should increase funding in this interoperability initiative by \$5 billion in 1 year is essentially an extraordinary statement as to what the priorities should be for the Federal Government in fighting terrorism. The Department of Homeland Security has a lot of issues of responsibility. The Federal Government has priority responsibility, for example, for protecting our borders. It has priority responsibility, for example, for protecting our airlines and air travel. It has priority responsibility for making sure we are ready to fight and

address the threat of weapons of mass destruction.

It does not necessarily have, as a first responsibility, making sure that every police department and fire department in this country buys new radio equipment that can communicate with every other police and fire department. In fact, this effort is, and always has been, a State and local effort. In fact, there is still no consensus as to how interoperability should occur. There has been an attempt to reach a standard agreement on interoperability going on for 25 years, called the P-25 standards, and those standards simply have not been reached. I know from my experience in New Hampshire we had a problem in Vermont. The New Hampshire police couldn't talk to the Vermont police and our State police couldn't talk to our local police and our Fish and Game people couldn't talk to our State Police and our Customs officers along the borders couldn't talk to anybody other than the other Customs officers, so we sat down in a room and figured out how to do it and we got everybody on the same page. But that was a State decision on the issue of interoperability. Then the State decided to take funds and use them to fund interoperability coming through the State grants.

That is the way you approach this problem. But by taking the Homeland Security budget and increasing it 20 percent for a line item that doesn't exist to fund interoperability grants is, in my opinion, not the best way to spend dollars in this present context. It should be put in the fuller context, which is this: These funds would go into a pot of money which presently exists, first responder money, of which \$7 billion still has not been spent. Seven billion dollars is still sitting here in the Federal Treasury waiting to be spent because the plans are not in place for how to efficiently spend it at the State and local level. So to put another \$5 billion on top of that, and then I understand Senator DODD and the Senator from Michigan are going to come forward with another \$15 billion or \$20 billion plus-up of State and local grants for next year when we still have \$7 billion in the pipeline that hasn't been spent is, to say the least, I think not good management of our dollars in the area of how we protect our Nation.

Much higher priorities exist. To the extent we can find additional resources, those high priorities such as the borders, such as fighting weapons of mass destruction, such as hardening our systems in the area of chemical plants, in the area of nuclear plants, in the area of intelligence gathering—which is the key to this whole exercise—are priorities.

Yesterday Secretary Chertoff outlined how he intends to refocus the priorities of the Homeland Security agency and, yes, first responders are a key part of this. But a 20-percent plus-up makes no sense.

This amendment has, as part of its elements, an emergency designation.

Under the Budget Act an emergency is something that is sudden, urgent, and unforeseen. The failure of the police department to be able to talk to the fire department in Epping, NH, has been occurring for a long time. It is not a sudden, urgent, unforeseen event. It is actually something that should have been planned for. I am not picking Epping out, because I suspect Epping actually has everybody speaking to each other, knowing it is a very well-run town. But interoperability is not a sudden, unforeseen, urgent event. It is an event that needs to be addressed, it needs to be managed, and needs to be managed within the context of the plans the States have for developing their first responder response.

We know it is a big issue. Each State is hopefully grappling with this and coming forward with their plans. But clearly it does not fall within the context of an emergency designation as the budget perceives emergency designations. So this amendment as proposed is clearly outside the emergency designation qualification and it does represent a \$5 billion plus-up, which would be an addition to our deficit of \$5 billion were it to pass, and therefore is subject to a point of order and is not, in my humble opinion, good policy to pursue at this time.

Therefore, pursuant to section 401(b)(5) of H. Con. Res. 95 for the fiscal year 2006 Budget Resolution, I raise a point of order against the emergency designation provisions contained in this amendment and make that point of order.

Ms. STABENOW. Mr. President, I move to waive the applicable sections of the Congressional Budget Act for purposes of considering my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, at a later time today we will set up this motion to waive the Budget Act vote. It looks as if we are not going to have votes until quite late this evening, probably not starting until 7:30 or 8 o'clock. This will obviously be one of those votes, should the leader decide he wants to hold votes at that time, and I appreciate the courtesy of the Senator from Michigan.

Pursuant to the prior discussion, I yield the floor to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

(The remarks of the Senator from Massachusetts, Mr. KENNEDY, are printed in today's RECORD under "Morning Business.")

Mr. KENNEDY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.



Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I will speak for a few minutes and highlight some of the important provisions of this appropriations bill, specifically as they pertain to the issue of border security. The Senator from New Hampshire, the chairman of the Subcommittee on Homeland Security, along with the entire Appropriations Committee, have done much good that should be heralded. But those steps should also be seen as just a first step toward getting us in the right direction, which is to obtain operational security of our Nation's borders, something we do not have now and something which represents a clear threat to our national security.

As the Senate Committee on Appropriations recognized, these resources are just a first step toward true reform of our immigration system. Additional enforcement resources along the border will be needed. In that connection, Senator KYL, the junior Senator from Arizona, and I will be filing a bill within the next couple of weeks that will authorize additional resources to secure our border.

Our Nation's immigration and border security system is badly broken. It leaves our borders unprotected and threatens our national security. It makes a mockery of the rule of law. This system unfortunately has suffered from years of neglect. But in a post-September 11 world we simply cannot tolerate this situation any longer. We stand here today almost 4 years from that terrible date, and we are reminded as recently as just last week—with the attacks in London—that terrorism is a real and tangible threat to the free world.

National security demands a comprehensive solution to our immigration system. That means both stronger enforcement and reasonable reform of our immigration laws. We have to confess that we have not devoted the funds, the resources, and the manpower necessary to enforce our immigration laws and protect our borders.

Representing a border State with about 1,600 miles of border with Mexico, I can state that for too long Washington has simply taken the attitude that this is a local or State problem. If it is not the duty of the Federal Government to deal with the security of our borders, whose responsibility is it? It is a Federal responsibility, and it is one that has simply been abdicated for far too long.

No discussion of comprehensive immigration reform, however, is possible without a clear commitment to and a substantial and dramatic escalation of our efforts to enforce the law. In my capacity as the chairman of the Subcommittee on Immigration, Border Security and Citizenship of the Senate Judiciary Committee, we have held a

number of hearings on this issue of border security and immigration enforcement. They have been quite revealing. I will share some of the information with our colleagues because it supports the direction in which this Homeland Security appropriations bill takes us, and puts us one step closer to the final goal: control of our borders and a secure, orderly immigration process.

The Department of Homeland Security has testified recently that they do not have operational control over parts of the southern border. That is obvious to those who live and work along that border and represent those States.

My constituents have told me as recently as last week when I traveled to south Texas, to Laredo, TX, when I traveled to McAllen, TX, and the Rio Grande Valley that the nature of the immigrants coming across our southern border is vastly different from what it has historically been. For example, over the last 3 years, the number of apprehensions of those designated as "OTM,"—other than Mexican—has doubled from 37,316 in 2002 to 75,000-plus in 2004. This year, it is currently 96,000. It is likely that the number will be twice this year what it was last year.

The vast majority of these individuals who are apprehended as they come across the border are from countries that you would expect: Mexico and countries in Central and South America. However, the Border Patrol chief, Chief Aguilar, has testified at one of our hearings that 400 aliens from special-interest countries had been apprehended last year. Some come from countries that support international terrorism. That ought to be a grave concern to all of us. We need to expend additional resources, both to ensure we are apprehending aliens who are trying to enter our country illegally, and to make sure we detain them and remove them in an expedited fashion.

Let me bring to the attention of our colleagues some of the facts because they may not be aware of them. I think they will be shocked to find out how unsuccessful we are, despite the best efforts of the Department of Homeland Security.

Last year alone, the Border Patrol detained roughly 1.1 million people coming across our borders. Now, my information, from those who are on the ground who deal with this on a day-in-and-day-out basis, is that they think they probably are capturing between one out of every three or one out of every four. Yet last year alone they captured approximately 1.1 million and detained them.

But the concern is that we only have roughly 20,000 detention beds. So what the Border Patrol does is, after doing a background check, after which they run these aliens' names against a terrorist watch list and various criminal justice data bases, they engage in what can only be called a catch-and-release program. In other words, they release them on their own recognizance based

on their promise to return for further proceedings later on. It should come as no surprise that the overwhelming number of these detainees do not reappear for their hearing, and they simply melt into the landscape.

As a result of this flawed policy, we know we have approximately 10 million people living in our country outside of our laws. And those numbers are getting bigger, not smaller.

I do not know how we can stand here, particularly in the face of the threat of international terrorism, and tell the American people we are doing the job they sent us here to do. Because we know that organized crime groups, which are only interested in making money, do not care whether they deal with human beings who want to come here to work, whether they engage in human trafficking, whether they engage in illegal drug transactions, illegal arms transactions, or any one of a number of other activities that are designed to generate money. We know in these organized smuggling activities, many of which originate from Asia and the Middle East, people are literally brought across the ocean to South America, or to Mexico, or Central America, and then they take advantage of our porous southern border and potentially threaten our national security.

I hope, and indeed I believe, that most of the people who come to this country across our border outside of our laws are coming here for the same reason they have always come here; and that is, to find work and the ability to support their families because they cannot do so where they live. But we have to acknowledge this porous border we have and our failure to obtain operational security of our borders is a national security threat because the same avenues of entry into the country by which construction workers and others might come are available for exploitation by international terrorists.

We have no idea, and no agency of the Federal Government can tell us, whether or not we have sleeper cells of terrorists who have exploited that border to come here. But we know they continue to come, that vulnerability continues to exist, as long as the Federal Government fails to live up to its responsibility to secure our border.

This bill, to the great credit of the subcommittee and its chairman, the Senator from New Hampshire, recommends a total of about \$6 billion for securing the Nation's borders, including \$1.7 billion for border staffing between the ports of entry.

Separately, the bill includes \$81 million for construction requirements associated with 1,000 new Border Patrol agents. I mentioned the issue of detention beds. There are only 20,000 beds right now, which is woefully inadequate. Given our failure to implement nationwide expedited removal processes for people who come to our country illegally, the Border Patrol and the

Federal agencies are simply left with this unworkable and inexcusable system of catch-and-release, which merely exacerbates the problem we have in this country with illegal immigration.

This bill moves us in the right direction by funding an additional 2,240 detention beds, with a \$77 million increase, bringing the total up to almost 23,000 beds. It is still not enough, but clearly this moves us in the right direction.

The Intelligence Reform Act authorizes 8,000 beds per year, and the Iraq war supplemental funded almost 2,000 beds.

The bill I alluded to earlier that Senator KYL and I intend to file shortly calls for an additional 10,000 detention beds to be constructed each year, at an estimated cost of \$330 million, which is an increase of 2,000 beds per year over what was authorized in the Intelligence Reform Act.

The recent surge of people coming illegally into our country outside of just our immediate neighbor of Mexico demonstrates this catch-and-release policy must be changed. It is only through the commitment of resources, such as being done in this bill, that we are going to get to where we need to be.

I am pleased to see the recommendations that are made as to additional resources in this bill, but I remind my colleagues there is still much that needs to be done when it comes to ensuring our security and our safety by enforcement of our laws.

I hope at another time to be able to come back and address my colleagues on the details of the bill Senator KYL and I intend to introduce which is composed of four main provisions.

One provision has to do with enhanced border security, which I have already alluded to here. The second provision has to do with interior enforcement. In other words, once people get past the border, then they are simply lost to our Federal law enforcement agencies. We simply, as the Federal Government, do not provide them the additional resources they need in order to be partners in our law enforcement effort when it comes to border security and immigration law enforcement.

Last week, I visited with a group of sheriffs in Victoria and Goliad Counties. They are about 200 miles inland. But you may recall, Mr. President, and my colleagues may recall, it was about 2 years ago when 19 immigrants, who had been smuggled illegally into the country, were left to die in a trailer because the human smuggler—a coyote, as they are called in our part of the country—cared nothing about them and left them to die in over 100-degree temperatures inside a cattle trailer.

These local law enforcement officials are willing to help and willing to be of assistance, but they want the training and they need additional resources so they can hire the personnel. We must meet our obligations to provide the ad-

ditional resources they need so we can work as partners with local law enforcement and State law enforcement to enforce the law.

So the first component is enhanced border security, and the second component is enhanced interior enforcement.

The third component of the bill Senator KYL and I will file has to do with employer accountability. It may come as a shock to the people of America to know we currently do not have in place an effective way for employers to authoritatively determine whether the person standing in front of them, who wants to be hired, is in fact authorized to work in the United States of America or whether they happen to be an illegal immigrant who cannot legally be hired by American employers.

What our bill will do is remedy that deficiency and provide employers with a reliable means to document the fact that indeed this perspective employee is authorized to work in the United States, and to do so in a reliable fashion.

We will also at the same time insist that employers, once we give them the tools they need, enforce the law and make sure they document that, in fact, this perspective employee is authorized to work in the United States.

The fourth and last component has to do with a temporary worker program. The President talked about this a couple of years ago. I think he is exactly right. But the problem is, it has to be combined with enhanced border security, enhanced interior enforcement, and tools that employers need in order to determine the legal status of the perspective employees that stand in front of them. But we also have to acknowledge the facts: America's economy is strong, and we have a demand for the labor many immigrants provide, but we simply need to provide a legal means for people to work and perform those jobs that American citizens do not want or are not available to do.

Then we need to provide a means to return those individuals who come here on a temporary basis and work in the United States under this legal regime, to return them to their home, with the skills and the savings they have acquired working in the United States. Because unless we deal also with the economic aspects of this problem that affects our national security, we will never have any hope of solving it.

I will speak more on that later. But I did want to give our colleagues a preview of what is being worked on as a comprehensive solution. And I did want to come to the floor and express my great appreciation to the Senator from New Hampshire, the chairman of the subcommittee, and all of those who have made it possible for us to focus our efforts on enhanced border security, and to explain why I believe it is absolutely critical to the safety and security of the American people that we obtain operational security of our border. It is something we cannot claim now and which, indeed, law enforce-

ment officials of the U.S. Government admit we do not currently have.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAUNCH OF SPACE SHUTTLE "DISCOVERY"

Mr. CORNYN. Mr. President, I would like to take about a minute more of our colleagues' time. I neglected to make some additional brief comments that I would like to make on the space shuttle launch that is occurring today.

It was my very first speech on the Senate floor, sadly, when I paid tribute to the astronauts who lost their lives in the *Columbia* disaster in February of 2003. The thoughts and admiration of the Nation are with the brave astronauts aboard *Discovery* today as they make their journey into space. It is the first one this Nation has attempted since that terrible tragedy in February 2003.

I believe the robust manned space program is critical to both America's proud tradition of exploration and its commercial and military preeminence in space.

NASA's missions foster technological and scientific advances and help ensure our national security as well as create jobs for thousands of Texans and thousands of Americans.

I believe the mission of NASA, together with the President's vision for future space exploration, will also encourage young people to study math and science and prepare for space-related careers. As so many young children have done in the past, they are inspired by the feats of daring and accomplishment by these brave astronauts who are launching into space again today. These goals are set not just for our current benefit, but also for future generations of leaders and innovators in Texas and across America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under "Morning Business.")

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1202

Mr. DODD. Madam President, I call up amendment No. 1202 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Ms. STABENOW, Mr. LAUTENBERG, and Mr. CORZINE, proposes an amendment numbered 1202.

Mr. DODD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fund urgent priorities for our Nation's firefighters, law enforcement personnel, emergency medical personnel, and all Americans by reducing the tax breaks for individuals with annual incomes in excess of \$1 million)

On page 77, line 22, strike \$425,000,000 and insert \$2,058,178,673.

On page 78, line 13, strike \$365,000,000 and insert \$1,878,088,040.

On page 78, line 16, strike \$200,000,000 and insert \$1,029,089,337.

On page 78, line 22, strike \$5,000,000 and insert \$25,727,233.

On page 78, line 24, strike \$10,000,000 and insert \$51,454,467.

On page 77, line 18, strike \$2,694,000,000 and insert \$13,863,377,000.

On page 77, line 20, strike \$1,518,000,000 and insert \$7,810,788,066.

On page 79, line 1, strike \$100,000,000 and insert \$514,544,668.

On page 79, line 5, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 7, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 9, strike \$40,000,000 and insert \$205,817,867.

On page 79, line 21, strike \$321,300,000 and insert \$1,653,232,019.

On page 81, line 24, strike \$615,000,000 and insert \$3,164,802,000.

On page 81, line 24, strike \$550,000,000 and insert \$2,830,311,000.

On page 81, line 26, strike \$65,000,000 and insert \$334,491,000.

On page 82, line 12, strike \$180,000,000 and insert \$926,284,000.

On page 83, line 12, strike \$203,499,000 and insert \$1,047,210,000.

On Page 89, line 3, strike \$194,000,000 and insert \$998,327,800.

Mr. DODD. Madam President, I offer this amendment on behalf of myself and my colleague from Michigan, Senator STABENOW, along with Senators CORZINE and LAUTENBERG of New Jersey.

The purpose of this amendment is very simple, although the amount I am asking for here is rather large. The purpose is to fund sufficiently the urgent priorities of our Nation's firefighters, law enforcement personnel, emergency medical personnel, trans-

portation systems, and other critical infrastructure such as our ports and chemical plants. The amendment's language suggests paying for these vital priorities by limiting some of the tax breaks for individuals with annual incomes in excess of \$1 million. I assume that at an appropriate time my colleague from New Hampshire or others will make a point of order against this amendment. I will then move to waive that point of order. In the meantime, let me explain the amendment.

It is one I initially offered two years ago during a similar debate regarding homeland security. I was not successful in having the amendment adopted then. I am hopeful that I will be successful today, especially in light of events during the last several days in London. But I understand, given the size of the amount I am requesting, that the chances of this amendment being adopted are not great.

Nevertheless, it is important to offer this measure anyway because it isn't an amendment I crafted per se, although I offer it here legislatively. The language and request of this amendment were a result of two task forces conducted by the Council on Foreign Relations that examined America's needs in the wake of the attacks on September 11, 2001, and laid out, by our former colleagues Senators Warren Rudman and Gary Hart, along with members of their task force, the vital importance of sufficiently preparing for the inevitable events that are occurring at the hands of terrorist organizations. I don't know how many more events it is going to take for us to respond with the kinds of resources we need to have in place.

I was a Member of this body when the Marine barracks in Lebanon were hit, the Lockerbie incident happened, the World Trade Center was first bombed, the USS *Cole* was attacked, the embassies in Africa were bombed, and then, of course, when the World Trade Center was attacked for the second time. We have seen in Tokyo the subway attacks in 1996, the Madrid train bombing in March of 2004 and, of course, the London Underground attacks only a few days ago. These are just a few of the hundreds of terrorist attacks that have taken place around our world over the last couple of decades.

Mr. DODD. Let me outline the Rudman report and why this amendment is important.

Two years ago the Council on Foreign Relations convened an independent task force to identify the challenges faced by our Nation in preventing and responding to acts of terrorism. This task force was chaired by our former colleague Senator Rudman. In June 2003, the task force issued a comprehensive report entitled "Emergency Responders: Dramatically Underfunded, Dangerously Unprepared."

Former Senator Rudman was joined on this task force by a very distinguished group of our fellow American citizens. I ask unanimous consent to

print in the RECORD the entire list of those people who prepared the report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### TASK FORCE MEMBERS

Charles G. Boyd is currently Chief Executive Officer and President of Business Executives for National Security (BENS). Before retiring from the U.S. Air Force in August 1995, General Boyd served as Deputy Commander in Chief for the U.S. European Command.

Richard A. Clarke is Senior Adviser to the Council on Foreign Relations and is currently Chairman of Good Harbor Consulting, LLC. Previously Mr. Clarke served under the last three presidents as a senior White House adviser.

William J. Crowe is Senior Adviser at Global Options. Previously, Admiral Crowe served as Chairman of the Joint Chiefs of Staff under President Ronald Reagan.

Margaret A. Hamburg is Vice President for Biological Weapons at the Nuclear Threat Initiative. Before coming to NTI, Dr. Hamburg was Assistant Secretary for Planning and Evaluation at the U.S. Department of Health and Human Services.

James Kallstrom is Senior Executive Vice President at MBNA America Bank. After September 11, 2001, Mr. Kallstrom took a leave of absence from MBNA America and served as Director of the Office of Public Security for the State of New York.

Joshua Lederberg is a Nobel Laureate and currently serves as President Emeritus and Sackler Foundation Scholar at Rockefeller University.

Donald B. Marron is Chairman of UBS America as well as Lightyear Capital. Previously, he served for twenty years as Chairman and Chief Executive Officer of Paine Webber Group, Inc., until its merger with UBS in 2000.

Jamie F. Metzl is Senior Fellow and Coordinator for Homeland Security Programs at the Council on Foreign Relations. He has served on the National Security Council at the White House, in the Department of State, and as Deputy Staff Director of the Senate Foreign Relations Committee.

Philip Odeen is former Chairman of TRW Inc. Previously, Mr. Odeen was President of BDM International, Inc., and a Vice Chairman at Coopers & Lybrand LLP.

Norman J. Ornstein is a Resident Scholar at the American Enterprise Institute, and Senior Counselor to the Continuity of Government Commission.

Dennis Reimer is Director of the National Memorial Institute for the Prevention of Terrorism in Oklahoma City. Prior to that, General Reimer served in the U.S. Army in a variety of joint and combined assignments, retiring after 37 years as the Chief of Staff of the U.S. Army in 1999.

Warren B. Rudman is Chairman of the Independent Task Force on Emergency Responders. He is currently a partner in the international law firm Paul, Weiss, Rifkind, Wharton and Garrison and formerly Chairman of the President's Foreign Intelligence Advisory Board under President Clinton. Previously, he represented New Hampshire in the U.S. Senate from 1980 to 1992.

George P. Shultz is the Thomas W. and Susan B. Ford Distinguished Fellow at the Hoover Institution. He has served as Secretary of State, Secretary of the Treasury, Secretary of Labor, and director of the Office of Management and Budget.

Anne-Marie Slaughter is Dean of the Woodrow Wilson School of Public and International Affairs at Princeton University.

Prior to her appointment at Princeton, she was the J. Sinclair Armstrong Professor of International, Foreign and Comparative Law at Harvard Law School.

David Stern has been Commissioner of the National Basketball Association since 1984. He joined the NBA in 1978 as General Counsel and became the league's Executive Vice President in 1980.

Paul Tagliabue is Commissioner of the National Football League. Prior to becoming NFL Commissioner in 1990, he served as Chief Legal Counsel to his predecessor.

Harold E. Varmus is President and Chief Executive Officer of Memorial Sloan-Kettering Cancer Center. Previously, he served as Director of the National Institutes of Health.

John W. Vessey is Chairman of the Council on Foreign Relations' Center for Preventive Action and previously served as Chairman of the Joint Chiefs of Staff as well as Vice Chief of Staff of the U.S. Army.

William H. Webster is a Partner at the law firm of Milbank, Tweed, Hadley & McCloy. He previously served as Director of the Central Intelligence Agency from 1987 to 1991 and Director of the Federal Bureau of Investigation from 1978 to 1987.

Steven Weinberg is Director of the Theory Group of the University of Texas. He is a Nobel Laureate in Physics, and a recipient of the National Medal of Science.

Mary Jo White is Chair of the 192 lawyer litigation group of Debevoise & Plimpton. She also served as U.S. Attorney for the Southern District of New York from 1993 until 2002.

Mr. DODD. Let me mention several of them because they are important. What I am offering as an amendment were suggestions made by this panel to the Department of Homeland Security and to the Congress as a way of bolstering our security needs across the Nation.

The membership of this distinguished panel included George Shultz, former Secretary of State, Treasury, and Labor; William Webster, former Director of the Central Intelligence Agency; Charles Boyd, chief executive officer and president of the Business Executives for National Security; Margaret Hamburg, vice president for biological weapons at the Nuclear Threat Initiative and former Assistant Secretary for planning and evaluation at the Department of Health and Human Services; Don Marron, former chairman of UBS America; James Metzl, former staff member of the NSC, the Department of State, and former staff director of the Senate Foreign Relations Committee; Norman Ornstein, resident scholar at the American Enterprise Institute; Anne-Marie Slaughter, dean of the Woodrow Wilson School of Public and International Affairs at Princeton University; and Harold Varmus, president and chief executive officer of the Memorial Sloan-Kettering Cancer Institute.

The list goes on. These are the people who "prepared," in a sense, the amendment I am offering. The suggestions I am offering are ones suggested as a result of the task force's recommendations.

Let me say that I have great respect for Senator GREGG and Senator BYRD who have dealt with these issues in

their capacities as Chairman and Ranking Member on the Homeland Security Appropriations Subcommittee respectively. It is not easy to put together these bills under budget caps. I understand that, and I have respect for it. I understand the constraints under which my colleagues operate. Certainly, they are trying to provide adequate resources for our emergency responders and critical infrastructure needs in this country.

If the tragic events in London and the events I mentioned at the outset say anything to us as a people, it is that we must renew and redouble our efforts to prevent and respond to terrorism at home. The Rudman report only underscores the sense of urgency that we ought to have about protecting our country from the risk of terrorism.

I appreciate that the managers of the bill are seeking to have \$100 million of added resources for transit security. They are working within very tight budget constraints. Nevertheless, the security needs of our country far exceed what the managers are able to provide with the limited resources they have been given under this bill.

The Rudman report says our Nation should immediately spend—and this was 2 years ago—\$20 billion per year for 5 years to hire, equip, and train first responders and to better protect our critical infrastructure from attack. This bill spends roughly \$3.9 billion—less than one-fifth of what the Rudman report called for 2 years ago. That, I might add, is close to \$700 million less than was spent 2 years ago. So it appears we are headed in the wrong direction and doing less than what we should be doing.

I would like to read various passages of the Rudman report to try to persuade Members of the sense of urgency that Senator Rudman and the Commission certainly had 2 years ago, and to shed light, if you will, on a survey and study done by those who are very knowledgeable about the challenges posed by international terrorism and about the needs and steps that need to be taken to make our Nation more prepared to meet those challenges.

I will read the conclusion of the report prepared by Senator Rudman:

The terrible events of September 11 have shown the American people how vulnerable they are because attacks on that scale had never been carried out on United States soil. The United States and the American people were caught underprotected and unaware of the magnitude of the threat facing them.

In the wake of September 11, ignorance of the nature of the threat or of what the United States must do to prepare for future attacks can no longer explain America's continuing failure to allocate sufficient resources in preparing local emergency responders. It would be a terrible tragedy indeed if it took another catastrophic attack to drive the point home.

I do not think any words can express the problem before us more clearly than those of Senator Rudman.

I will quote from the foreword written by Les Gelb, the former President of the Council on Foreign Relations:

As I sit to write this forward, it is likely that a terrorist group somewhere in the world is developing plans to attack the United States and/or American interests abroad using chemical, biological, radiological, nuclear or catastrophic conventional means. At the very same time, diplomats, legislators, military, and intelligence officers, police, fire, and emergency medical personnel, and others in the U.S. and across the globe are working feverishly to prevent or prepare for such attacks. These two groups of people are ultimately in a race with one another. This is a race we cannot afford to lose.

Several months prior to the issuance of the Rudman report, in October 2002, the Council on Foreign Relations convened another task force, the Independent Task Force on Homeland Security, which issued the report, "America: Still Unprepared, Still in Danger." The task force, co-chaired by Senators Rudman and Hart, came to the general conclusion that:

America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack on U.S. soil.

The report further warned that:

America's own ill-prepared response could hurt its people to a much greater extent than any single attack by a terrorist, and the risk of self-inflicted harm to America's liberties and the way of life is greatest during and immediately following a national trauma.

So here you have two seminal reports, issued within 8 months of one another, prepared by some of the most respected individuals in this country, who have longstanding experience in the matters of diplomacy and national security. These are not lightweights who made these recommendations I am offering as part of this amendment. They are top experts and they have sounded the alarm to us. They sounded it after 9/11; they sounded it before Madrid and London. How many more events before we put the kind of resources in place that allows this Nation to have a much higher sense of security, as we ought to have in light of the attacks presently being prepared and focused against us?

The funding level that Senator STABENOW and I are proposing in this amendment is over \$16 billion. It is huge; I understand that. It supplements the approximately \$4 billion that the underlying measure devotes to emergency responders and infrastructure security. Together the bill and the amendment provide \$20 billion in emergency responder funding over the next year.

This is the recommendation of the Rudman report. This is the recommendation of the individuals who helped prepare that report. It is a recommendation made by respected experts and leaders in the fields of national security, intelligence, foreign relations, military affairs, bio-terrorism, business, public health, and budget analysis. These distinguished

men and women spent significant time analyzing the problems facing our first responders and our Nation's security. They gave us their best professional judgment of what we need to do. Regrettably, we are falling woefully short of what needs to be done in this country.

I understand the need for a budget resolution that sets caps on appropriations bills. Effective budget resolutions in the Senate are those that achieve balance. They curb reckless spending while providing a sound investment in our domestic and foreign priorities. Unfortunately, I don't find the current budget resolution and the caps it has imposed very balanced at all. While constraining our ability to invest adequately in our emergency responders and domestic security, this resolution causes, in my view, the national deficit to increase by at least \$130 billion over the next 5 years, principally through tax cuts that only benefit the most affluent of our citizens.

I represent if not the most affluent State, one of the most affluent States in the country. I have no doubt that the people of Connecticut would certainly be prepared—when asked whether they could do with a little less in order to provide the Nation with more security—to agree. They understand this issue. I believe that given the choice, they would rather see the tax cut they are receiving go to this kind of investment.

The report before us represents an uncomfortable reality that we have to face as a nation. I certainly applaud the hard and groundbreaking work done so far to reduce the threat of terrorism in this Nation. A lot of good people are working hard at this. Yet as the tragedy in London vividly showed us last week, no nation, including ours, is invulnerable. We still possess weaknesses in our domestic security and our infrastructure that must be strengthened.

For over 2 years now, we have possessed in the form of the Rudman and Hart reports a clear message from the most qualified experts in our Nation that we need to do more to prepare ourselves. While I apologize for offering an amendment that costs over \$16 billion, I ask my colleagues why we should not offer an amendment that encompasses what the Rudman report recommends and what is dearly needed. Why not offer an amendment that meets the needs of our emergency responders while doing significantly more to boost security measures along our rails, on our trucks, and in our seaports and harbors? In my view, we should decide whether we think the recommendations made by these distinguished Americans deserve our support and whether we have the will to do what is needed to be done to put our country on a more sound and secure footing.

The Rudman report makes several comprehensive recommendations to increase our investment in emergency re-

sponders and domestic security. Among these recommendations are: One, developing a standard for emergency responder minimum essential capabilities in fields such as training, interoperable communications systems, and response equipment; two, developing a standard for determining the nature of cost sharing between Federal, State, and municipal governments for homeland security activities; three, guaranteeing multiyear Federal funding for homeland security activities funded jointly by Federal municipal resources; four, reforming congressional oversight; five, allowing for greater flexibility in using Federal homeland security resources; six, developing a standard for evaluating best practices; and seven, developing a standard to ensure more effective coordination between Federal, State, and municipal governments.

While the Department of Homeland Security has started to address some of these recommendations—and I note that this morning Secretary Chertoff announced some significant administrative changes to the Department of Homeland Security, and I applaud him for that—I think many more changes and resources must be implemented and provided respectively to meet the Rudman report recommendations fully. I think we ought to be doing more by supporting the financial needs that are going to provide for the various gaps that occur in the security of our various infrastructure systems.

Finally, we all know that the cost of this amendment is large. I want to put this figure in perspective. We are spending roughly \$5 billion every month in Iraq and Afghanistan—\$1 billion a week in Iraq and \$1 billion a month in Afghanistan. That is \$15 billion in vital spending and funding every 3 months to ensure that our men and women in uniform can deal with the threats in those foreign lands. Senator STABENOW, the other cosponsors of this amendment, and I are asking for \$16 billion for a whole year to make us more secure at home. I understand the needs and I have supported the funding for our troops in the field. We know as a result of the Rudman report that we are woefully short in what needs to be done at home to keep our Nation more secure.

As I mentioned a moment ago at the outset of these remarks, how many more incidents need to occur before we do what the Rudman report has called for? How many more times do we have to be attacked to realize what major steps need to be taken to be better prepared?

I believe that if we have the will, we can find the resources that we know are needed to make sure we have the infrastructure security in place and the personnel support in place to give our fellow citizenry the greater sense of security that they ought to have.

With that, at the appropriate time, I will ask for the yeas and nays on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, it is my intention to respond to the amendment proposed by the Senator from Connecticut and make a point of order relative to it. Prior to doing that, I will yield to the Senator from Arkansas for 5 minutes so he may offer an amendment and get it in the queue. Then we can agree to it.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1125

Mr. PRYOR. Madam President, I ask that amendment No. 1125 be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 1125.

Mr. PRYOR. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To encourage the acquisition by the Secretary of Homeland Security of an integrated mobile medical system)

On page 83, line 26, before the period, insert the following: “: *Provided further*, That of the total amount made available under this heading for the support and acquisition of mobile medical units to be used by the Federal Emergency Management Agency, Directorate of Emergency Preparedness and Response, in response to domestic disasters, the Secretary of Homeland Security is encouraged to acquire an integrated mobile medical system for testing and evaluation in accordance with subchapter V of chapter 35 of title 31, United States Code (commonly known as the ‘Competition in Contracting Act’)”.

Mr. PRYOR. Madam President, my amendment simply encourages the Secretary of Homeland Security to consider an integrated mobile medical system as part of the Department's requirement for mobile medical systems.

The DOD is currently evaluating a fully integrated mobile medical system, and it appears that this system holds very promising results to provide quality medical treatment for emergency situations.

My amendment encourages the Department of Homeland Security to look at this issue and maybe allocate some resources for it.

I thank the majority staff, as well as the minority staff, and the two bill managers for their assistance on this amendment. The amendment has been agreed to. I thank my staff as well for all the hard work and diligence they put into it. The amendment has been cleared on both sides. I thank specifically Chairman GREGG and Senator BYRD for their support and assistance.

Madam President, I ask for the immediate consideration of amendment No. 1125.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 1125) was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1202

Mr. GREGG. Madam President, the Senator from Connecticut, joined by the Senator from Michigan, as I understand it, has offered an amendment which would increase the funding for first responder activity by \$16 billion. I note, as an initial comment, that this represents a 50-percent increase in funding for this bill in toto. In other words, the entire funding of the Homeland Security agency is about \$31 billion, and \$15 billion on top of that would be a dramatic increase, to say the least.

The logic for the approach is that there is a representation that the Rudman Commission and other people who have looked at this issue say first responders need more money. It is hard to argue with the fact that first responders do need more money, but the question becomes, in a world where we do not have unlimited resources, where should we put the resources to get the best results in this fight on the war on terrorism?

An additional logic for their position is because we are spending significant dollars in Iraq and Afghanistan on a monthly basis, \$5 billion is the number suggested by both Senators that we should be able to simply, easily afford and \$15 billion of additional spending for the Homeland Security agency in the area of first responder activity.

I suggest, at the beginning, that type of logic could lead to basically there being no end of spending on all sorts of programs. If we are going to use the example of the amount of dollars it takes to keep our service people properly equipped and properly armed and properly taken care of when they are in a field of battle, when they are engaged with an enemy on a daily basis, if we are going to use that number as the number which defines what we should spend, whether it is fire departments in New Hampshire or education departments in Connecticut or libraries in Michigan or colleges in West Virginia, we are going to end up with amendment after amendment which spends billions upon billions of dollars on the representation that, gee, we are spending all this money in fighting this war to try to make sure our troops are properly supported so, therefore, why can't we spend a lot of money somewhere else? I do not think there is a lot of consistency to that logic.

We know we have a limited amount of money as a Federal Government to spend—at least we should. We did pass a budget to try to put in place the context of how much money we have to spend. And in the context of that budget, we did fund the war, we did fund the

Defense Department, and we did fund the other functions of Government at a certain level. We dramatically increased the funding, for example, in education, we dramatically increased the funding in the area of homeland security, and we dramatically increased the funding for first responders, but within the context of a budget.

So when you bring an amendment to the floor that essentially says, Ignore the budget and spend \$15 billion next year on first responders and then spend another \$5 billion on top of that, which would be the Stabenow amendment on providing communications equipment, you are essentially saying we have no fiscal discipline and our purposes are not controlled by any sort of logic as to the relationship of the amount of money which the Federal Government takes in versus the amount of money the Federal Government spends.

The representation from the Senator from Connecticut is, if we were simply to repeal some of these permanent taxes that were extended in the budget, we could pay for this. I note for the Senator from Connecticut that he may not have noted this because he did not vote for the budget, and I understand he may not have focused a lot of time on it. But the budget, as passed by the Congress, did not have any permanent tax extensions in it relative to general income tax.

The only permanent extensions in the budget are for tuition tax credits for kids going to school, tax deductions for teachers who spend money to pay for school supplies in their classrooms, and a couple of other lesser tax deductions within the Code. So maybe he wants to repeal those extensions. I think those extensions are good policy. If that is his position, that will recover maybe—I don't know, I am not sure how much it would recover off the top of my head, but it would not be a great deal of money, and it certainly would not be enough money to cover this \$16 billion which is being proposed.

The budget did not, and it is a misrepresentation to come to the floor and represent that it did, extend permanently any rate tax cuts at all.

So this argument that, well, we can just do it by changing the budget, by changing the terms as to the way it applies to tax policy is incorrect on its face because there were no permanent extensions.

The issue really is this: Within the context of a reasonable budget for national defense and for homeland security, where should the dollars go first? What are the priorities? We made a conscious decision in this bill to focus the dollars on what we saw as the primary threats. I believe, and I was joined by the Senator from West Virginia and I think he agrees, that we should have a threat-based funding approach to the whole issue of homeland security. If one listened to Secretary Chertoff yesterday, that is what he plans to do.

What are the priority threats? No. 1, right at the top of the list, unquestion-

ably the most significant threat is the question of weapons of mass destruction. So we have put a significant amount of dollars into trying to increase our capacity to address, first, the detection and, second, a response capability in the area of weapons of mass destruction.

No. 2, the second largest threat which we have, in our opinion, is the fact that we have borders which are extraordinarily porous. Madam President, 3 million a year is the estimate of how many people come into this country illegally; 500 million people come into this country legally, and we really do not know a great deal about what their purpose is or what they are doing coming in and out of the country. In fact, we do not know if they are criminals because our databases are not capable of analyzing their entry documentation to determine whether they are some sort of threat or whether they are just citizens from another country who are coming here to enjoy our great Nation.

We have committed significant resources in this bill. We have moved more than \$600 million from various accounts into border security, specifically putting more feet on the border in the sense of adding many more Border Patrol personnel, giving those Border Patrol personnel the capital structure they need to support themselves, physical infrastructure, adding more detention beds, focusing on upgrading our computer and IT systems relative to entry-exit activity, especially the US-VISIT Program. That is because that is a huge threat.

Those are the two huge priority threats on which we focused.

The issue of first responders is a priority for us as a nation, but is it the No. 1 item that should be focused on in this bill? No. Is it Homeland Security's first line of activity? Quite honestly, it is not. It is a major line of activity, but the first lines of activity are the ones for which Federal Government is primarily responsible, such as airline safety, border safety, making sure we are ready to deal with weapons of mass destruction. That is why we mention those issues. But in the specific area of first responder accounts, this proposal, which would up the funding in first responders by \$16 billion and the proposal of the Senator from Michigan which would up the funding for a new line item, it would create a new line item in first responders of \$5 billion for communications assistance, truly is a misallocation of resources.

Even if we could afford it, we would not want to put that money into those accounts at that level. Why? Because these groups involved in developing first responder capability are not capable of spending that amount of money. How do we know that? Because we have \$7 billion—\$3 billion from the year 2004 and \$4 billion from the year 2005—sitting in Washington, in the Federal Treasury, which has not gone out yet for first responder funding activity.



Why is that? It is because, first, the Department of Homeland Security has some problems, and we are trying to address those in this bill, and we put in specific language to try to change that, and I know Secretary Chertoff has addressed it, but it is larger than that. It is not just the homeland security issue, it is the fact that one of the points the Rudman Commission made, and was even more aggressively made by the Gilmore Commission, which was another high-quality group of people who got together to study this issue, was that until you have a plan for how you are going to spend this money, if you just send it back to the States and to the communities without a plan which they have to follow, all you are doing is revenue sharing. It is going to end up being a plus-up for local agencies. Some will buy new cruisers or buy bomb dogs or just buy dogs, and they will buy whatever they want to buy without any plan or organization.

The reason the \$7 billion is still in the Treasury instead of out there on the streets helping out the fire, police, and local agencies is that the assessment plans, which are critical to the effort of getting in place a thoughtful approach to first responder funding and how they use these dollars, have not yet been completed. States are still working on assessment plans so they can come forward with these plans, and then the money will go out, and it will be spent in an orderly way instead of a haphazard way.

We do not want to get back into the situation we had in the 1970s, where essentially we were sending out hundreds of millions of dollars—not billions of dollars as we are today—to various groups across the country in the name of better law enforcement. A great deal of it ended up buying equipment and items that turned out to be not only not productive but counterproductive because a lot of interoperability communications was bought with that money when there was no plan overlying that LEA money to require interoperability. So the police department would get a grant for \$20,000, \$30,000 and go out and buy their system of communications, and then the fire department in the same town would get their \$20,000 or \$30,000, and they would go out and buy theirs, and neither could talk to each other because there was no plan.

The whole concept behind the assessment approach is so we can have a plan so that the civil defense centers in the States—fire in the States, police in the States, first responder health care communities in the States—are all coordinated and the money goes out in a coordinated way, that when it is completed, we actually have a situation where, if there is an incident and these folks who are so committed to making their communities stronger and better have to respond to it, it will be done in a focused and coordinated way pursuant to a plan which has been funded and focused in a coordinated way.

First off, the theory behind this, that we can spend another \$21 billion because we are spending \$30 billion in Iraq is—I think that theory totally disconnects.

Secondly, the concept that this may be paid for some day by repealing the budget point on permanent extension of tax cuts is purely incorrect because there were no permanent extensions in the budget.

Thirdly, if we are going to spend money on national security in the homeland area, we should spend it on threat-based activity, which is what this bill does. And the threats, in order of priority, put the issue of first responders lower than some of the first responsibilities of Homeland Security, such as border security, airline security, weapons of mass destruction protection, and intelligence-gathering agencies. That is absolutely critical.

Fourth, as a practical matter, we can appropriate all this money, but it cannot be spent, so there is no point in appropriating it at this time. Maybe a year from now, maybe 2 years from now, after that \$7 billion has come down a little bit. Remember, we are adding another \$4 billion to it this year anyway. This bill is not cheap on the side of first responders. We are putting another \$4 billion on top of the \$7 billion that still has not been spent.

When these assessment plans get in place and we start to generate some proper activity that allows this money to be spent in an orderly way and does not get wasted, then we might want to significantly increase this funding because we know it will be effectively used. But right now, to increase this funding just means it is going to sit at the Treasury, instead of being used where it really needs to be used, which is on threats which exist today and which we have to address today, which brings me to the underlying issue of threat because we are going to hear about this again and again. There is going to be an attempt to spend another \$1 billion, \$2 billion, or \$3 billion—I do not know what the final number will be—on mass transit.

The key to our capacity to defend ourselves from these terrorists is our capacity to stop them before they get here, and that means we have to have better intelligence and we have to have better border security. When they do get here, the key is to make sure they do not have the opportunity to use their hate and their commitment to trying to kill Americans in a vast way versus in a confined way by stopping them from having weapons of mass destruction or using a vehicle that would allow them to plus up their heinous crimes such as they did on 9/11 when they used airplanes as weapons, as missiles essentially.

So it all becomes a matter of order of threat, where the dollars should be. And the No. 1 issue we have to address is better gathering of intelligence, in which Homeland Security has a limited role, but Secretary Chertoff is going to

expand that effort; followed by the issue of weapons of mass destruction; followed by border security; followed by the first responsibilities of the Federal Government which are things such as air traffic control and air management; followed by, of course, funding and helping out first responders, which we have done, which is why there is still \$7 billion sitting in the bank because we have done it, but the system is not yet ready to effectively handle that money. It will be soon, hopefully. A lot of pressure is being put on both the Department of Homeland Security in this bill and on the State assessment plans to accomplish that.

This proposal is maybe well intentioned, but it is misguided at all sorts of different levels. Therefore, I cannot support it. Obviously, even if it were within the budget I would not support it because this is not where we need to allocate resources at this time at this level of activity.

I make my point of order at this time that under section 302(f) of the Congressional Budget Act the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. DODD. Madam President, I move to waive the budget point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I simply note that we will be voting on this, hopefully, later today when we have more of a contingency available to participate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I know my colleague from Hawaii is in the Chamber, but I want to respond to comments made by my friend from New Hampshire. He gave a good response to this amendment. It is a good bureaucratic response. As I said during my remarks, I apologize for offering an amendment of this magnitude. The Senator from New Hampshire is absolutely correct, the entire budget we are talking about for homeland security is around \$31 billion. This amendment is 50 percent of that budget.

I was fully aware, when I came to the floor to offer this amendment, of the reaction it would receive, but I also happen to believe the Rudman report, written by a group of people who are serious about these matters, has laid out for us very clearly what needs to be done.

Whether our domestic security is funded by reducing millionaire tax cuts or by some other mechanism, I am willing to listen. I just tried to offer one idea of where these resources could come from. Obviously, when an amendment like this is offered, I do not have the right to offer necessarily an offset so large. Tax cuts provided to the most affluent Americans was simply a suggestion as to where the resources could come from.

The underlying point needs to be made that we are not doing enough in the areas where we are terribly vulnerable. I will state how we are spending this money and lay it out. First, we are spending actually less this year than we have in the previous 2 years. In the Office of State and Local Government Coordination and Preparedness, which covers port security, truck security, rail security, training, technical assistance and development, we are going to spend just under \$2.7 billion. Last year, it was in excess of \$3 billion. The numbers are coming down, and yet almost everyone now knows in this country that our ports across the Nation are entirely vulnerable.

Less than 5 percent of containers have any screening done on them. Our rail and freight systems are virtually wide open. Stories get written every single day about the vulnerabilities that exist. We take the bulk of the funding proposed by this amendment—in excess of \$11 billion—and put it into these critical areas.

Again, I know it is a lot of money, but let another attack occur in this country, as I believe it will, and then look back and say: I wonder if we might have done a little more in the areas where we were vulnerable to prevent the attack, or I wonder whether or not the Senator from Connecticut was asking for too much.

I merely cited Iraq and Afghanistan to give a sense of proportionality. I have strongly supported the resources that ensure our troops receive the adequate funding they need.

And by the way, in certain areas like equipment, they are not even getting what they ought to be getting.

I make the point that there we are spending roughly \$15 billion every 3 months. This amendment costs roughly the same amount over a full year.

I have a pretty good sense, after a number of years here, as to what is going to happen with this amendment. It is probably going to fail. But I want the American public to know there are those of us who believe that if one has the will, one can find a way to do this. Whether one likes my proposed offset or not, if one believes that we ought to be doing more to make our ports, our rail systems, our truck security, and other infrastructure far better prepared than they are today, then they ought to support this amendment.

If they think we are doing enough already, then vote against it. I believe we are not doing enough, and I think many people in this country believe that as well. That is why I offer this amendment.

In conclusion, I would like to add a summary of the conclusions and recommendations of the Rudman report. The full report is some 70 or 80 pages and that is too long to include in the RECORD. It is available to Members who would care to have a full copy of it. This is approximately 12 pages. I ask unanimous consent that the conclusions and recommendations of the Rud-

man Report on Homeland Security be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT PREPARED BY THE COUNCIL ON FOREIGN RELATIONS—CONCLUSIONS AND RECOMMENDATIONS

1. DEFINE AND PROVIDE FOR MINIMUM ESSENTIAL CAPABILITIES

The Task Force found that there is no systematic national standard that defines the essential minimum capabilities for emergency responders that every jurisdiction of a given population size should possess or be able to access. Because of this, there are currently no comprehensive, systematic, and consolidated principles or measures against which the degree and quality of preparedness can be tracked nationwide. Current efforts to develop such standards are inconsistent and dispersed among various government agencies and nongovernmental organizations. Additionally, existing standards for minimum capabilities for emergency responders are a patchwork with many missing pieces that lacks systematic integration, are insufficient to address many major challenges—including that of catastrophic terrorism involving WMD—and are not harmonized across the many types of emergency responders. While existing standards provide a useful starting point, they do not constitute “national standards for emergency response training and preparedness,” as called for in the National Strategy for Homeland Security. (A selection from this document is included in Appendix B.) At the end of five years of federal funding, therefore, some metropolitan areas may still lack fundamental emergency responder capabilities.

Congress should require DHS and HHS to work with other federal agencies, state and local emergency responder agencies and officials, and standard-setting bodies from the emergency responder community to establish clearly defined standards and guidelines for federal, state, and local government emergency preparedness and response in such areas as training, interoperable communication systems, and response equipment. These standards must be sufficiently flexible to allow local officials to set priorities based on their needs, provided that they reach nationally determined preparedness levels within a fixed time period. These capabilities must be measurable and subject to federal audit.

Congress should require that the FY05 budget request for DHS be accompanied by a minimum essential emergency responder capability standard of WMD—and terrorism-related disaster equipment and training per 100,000 persons in a metropolitan region, and by separate standards for rural areas. Each recipient state and metropolitan area should then be required to submit a plan detailing how it intends to achieve that standard, to incorporate it into all appropriate training programs, and to regularly test its effectiveness.

National performance standards could be implemented through an incentive grant system making federal funding conditional and available to those localities that adopt federally approved standards of preparedness.

2. DEVELOP REQUIREMENTS METHODOLOGY

National capability standards for levels of preparedness must drive an emergency preparedness requirements process. This process must evolve into one similar to that currently used by the U.S. military. Threats must be identified, capabilities for addressing threats determined, and requirements generated for establishing or otherwise gaining access to necessary capabilities. The

Task Force found that the administration and Congress were funding emergency preparedness without any agreement on methodology to determine how much is enough or what the requirements are. It is therefore extremely difficult, if not impossible, to measure how well prepared the United States is.

Congress should include in the FY04 appropriations for DHS and HHS a provision calling on each agency to accompany the FY05 budget request with a detailed methodology for determining the national requirements for emergency responder capability and assistance.

Congress should require that DHS and HHS submit a coordinated plan for meeting national preparedness standards by the end of FY07.

Congress should require DHS and HHS to report annually on the status of emergency preparedness across the United States. This report should indicate the levels of federal, state, and local expenditures for emergency preparedness, evaluate how effectively that funding is being used, and assess the status of preparedness in each state based on national preparedness standards.

3. ACCEPT NECESSARY BURDEN-SHARING

The Task Force found that there were no accepted national guidelines for determining the nature of burden-sharing between the federal government and state and local jurisdictions. Although state and local jurisdictions should maintain primary responsibility for funding normal levels of public health and safety readiness, the Task Force found that the federal government should be responsible for providing the funds necessary to cover the incremental costs of achieving essential standards in responding to the additional national security threat posed by terrorism. In some outstanding cases, federal funds may be required to enhance state and local emergency responder infrastructure that has been starved of resources if the deterioration of capabilities is such that it poses a threat to national security and state and local resources are not reasonably sufficient for addressing this shortfall.

4. GUARANTEE SUSTAINED MULTIYEAR FUNDING

The Task Force found that many state and local governments are unwilling or unable to accept federal funding for programs that will generate long-term costs in the absence of guarantees that the federal government will make funds available for sustaining such programs. Stable and long-term funding is critical for encouraging state and local governments to develop the necessary emergency response capabilities and, most critically, to sustain them over time.

Congress should accompany all authorizations for emergency responder assistance grants in FY04 and thereafter with budget authority for sustaining those grants through the following two fiscal years.

5. REFOCUS FUNDING PRIORITIES

The Task Force found existing systems for determining the distribution of appropriated funds to states to be badly in need of reform. The federal government currently determines levels for emergency preparedness funding to states primarily on a formula that guarantees minimum funding levels to all states and then determines additional funding based on each state's population. All citizens of the United States deserve a base level of protection regardless of where they live. Nevertheless, the state and population-drive approach has led to highly uneven funding outcomes. Wyoming, for example,

receives \$10.00 per capita from DHS for emergency preparedness while New York State receives only \$1.40 per capita. While this approach may have political appeal, it unnecessarily diverts funding from areas of highest priority. In addition, decision by state officials regarding the allocation of funds in their states have not sufficiently taken into account the multitude of necessary factors.

Congress should establish a system for allocating scarce resources based less on dividing the spoils and more on addressing identified threats and vulnerabilities. To do this, the federal government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each state. State governments should be required to use the same criteria for distributing funds within each state.

Congress should also require each state receiving federal emergency preparedness funds to provide an analysis based on the same criteria to justify the distribution of funds in that state.

#### 6. RATIONALIZE CONGRESSIONAL OVERSIGHT

The Task Force found that the proliferation of committees and subcommittees in Congress makes it hard to devise a coherent homeland security policy and a focused homeland defense system. Congress needs to have a lead committee, or an effective joint committee, to shape overall policy. Otherwise the system is likely to be fragmented and plagued with pork.

The U.S. House of Representatives should transform the House Select Committee on Homeland Security into a standing committee and give it a formal, leading role in the authorization of all emergency responder expenditures in order to streamline the federal budgetary process.

The U.S. Senate should consolidate emergency preparedness and response oversight into the Senate Government Affairs Committee.

#### 7. ACCELERATE DELIVERY OF ASSISTANCE

The Task Force found that many metropolitan areas and states had actually received and spent only a small portion of the funds for emergency responders that have been appropriated by Congress since September 11. The current inflexible structure of homeland security funding, along with shifting federal requirements and increased amounts of paperwork, places unnecessary burdens on state and local governments as they attempt to provide badly needed funds to emergency responders. While a balance should be maintained between the need for the rapid allocation of emergency preparedness funds and the maintenance of appropriate oversight to ensure that such funds are well spent, the current danger is too great to allow for business as usual. According to the National Emergency Managers Association, "appropriation cycles have been erratic causing extreme burdens on state and local governments to continue preparedness activities when there is no federal funding, and then forcing them to thoughtfully and strategically apply several years of federal funds and millions of dollars at one time." (NEMA, State Spending and Homeland Security Funds, April 2, 2003) As a first step toward addressing this problem, Congress instructed the DHS Office of Domestic Preparedness in the FY03 consolidated appropriations measure (P.L. 108-7) to distribute grant funds to states within 60 days of the enactment of the bill and required states to distribute at least 80 percent of those funds to localities within 45 days of receipt.

Congress should ensure that all future appropriations bills funding emergency response include strict distribution timeframes as exemplified by the FY03 consolidated appropriations measure.

Congress should require states to submit data regarding the speed of distribution of the federal funds for emergency responders appropriated to states.

Congress should grant DHS the authority to allow states greater flexibility in using past homeland security funding. As a first step in this direction, Congress should authorize greater flexibility in the federal guidelines laid out in the FY03 Omnibus Appropriations Bill for the percentages of funds that can be used for various emergency response activities (e.g., 70 percent for equipment, 18 percent for exercises, 7 percent for planning, 5 percent for training) to make it possible for states to better allocate resources according to their most urgent needs. This authority should be granted on a case by case basis by means of a waiver from the Secretary of the Department of Homeland Security.

#### 8. FIX FUNDING MECHANISMS

Many states have been mandated to develop more than five separate homeland security plans. While the information requested by each homeland security plan is similar, states and communities are often required to reinvent the wheel from one emergency plan to the next.

DHS should move the Office of Domestic Preparedness from the Bureau of Border and Transportation Security to the Office of State and Local Government Coordination in order to consolidate oversight of grants to emergency responders within the Office of the Secretary.

States should develop a prioritized list of requirements in order to ensure that federal funding is allocated to achieve the best return on investments.

Congress should require DHS to work with other federal agencies to streamline homeland security grant programs in a way that reduces unnecessary duplication and establishes coordinated "one-stop shopping" for state and local authorities seeking grant funds. Efforts to streamline the grants process should not, however, be used as a justification for eliminating existing block grant programs that support day-to-day operations of emergency responder entities. In many cases, such grants must be expanded.

Congress should create an interagency committee to eliminate duplication in homeland security grants requirements and simplify the application process for federal grants.

#### 9. DISSEMINATE BEST PRACTICES

Although emergency responders have consistently identified as a high priority the need to systematically share best practices and lessons learned, the Task Force found insufficient national coordination of efforts to systematically capture and disseminate best practices for emergency responders. While various federal agencies, professional associations, and educational institutions have begun initiatives to develop and promulgate best practices and lessons learned, these disparate efforts generally are narrow and unsystematic and have not sufficiently reached potential beneficiaries. Such information-sharing could be one of the most effective ways to extract the greatest amount of preparedness from a finite resource pool. Once centralized and catalogued, such data will allow all emergency responders to learn from past experiences and improve the quality of their efforts, thereby assuring taxpayers the maximum return on their investment in homeland security. Access to this resource will provide the analytical foundation for future decisions regarding priorities, planning, training, and equipment.

Congress should establish within DHS a National Institute for Best Practices in Emergency Preparedness to work with state

and local governments, emergency preparedness professional associations, and other partners to establish and promote a universal best practices/lessons learned knowledge base. The National Institute should establish a website for emergency preparedness information and should coordinate closely with HHS to ensure that best practices for responding to biological attack are sufficiently incorporated into the knowledge base.

#### 10. ENHANCE COORDINATION AND PLANNING

The Task Force found that although effective coordination and planning are among the most important elements of preparedness, jurisdictions across the country are neither sufficiently coordinating emergency response disciplines within their jurisdictions nor adequately reaching across jurisdictional lines to coordinate their efforts with neighboring communities. Although Title VI of the Stafford Act (P.L. 106-390) authorizes the Director of FEMA to coordinate federal and state emergency preparedness plans, this authority has not been applied sufficiently to ensure adequate levels of coordination and planning between and among federal, state, and local jurisdictions. In addition, state and local emergency management agencies lack the resources to develop and maintain critical emergency management capabilities. More also needs to be done to encourage and facilitate mutual aid and other cross-jurisdictional agreements that pool resources, minimize costs, and enhance national preparedness.

DHS should require that all states and territories submit statewide mutual assistance plans, including cross-border plans for all cities and counties adjoining state or territorial borders. Reference to such plans should be required in all homeland security grant applications for federal funding. Wherever possible, grants should be structured to reward the pooling of assets across jurisdictional lines.

DHS should develop a comprehensive national program for exercises that coordinates exercise activities involving federal agencies, state and local governments, and representatives from appropriate private sector entities including hospitals, the media, telecommunications providers, and others. These exercises should prepare emergency responders for all types of hazards, with a specific focus on WMD detection and response. When necessary, funds should be provided to ensure that exercises do not interfere with the day-to-day activities of emergency responders.

Congress should work with DHS to expand the capacity of existing training facilities involved in the National Domestic Preparedness Consortium and to identify any new training facilities for emergency responders that may be required.

Mr. DODD. Again, I have great respect for my colleague from New Hampshire. He has a very difficult job, and there are constraints, but I also have been around long enough to know that when faced with emergencies that we have a way of getting around those constraints and doing what needs to be done. We have certainly done that in Iraq. We have done it in Afghanistan. I believe we ought to do it at home as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. AKAKA are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER (Mr. CHAFFEE.) The Senator from Arizona.

Mr. MCCAIN. Mr. President, I send three modifications of my amendments Nos. 1171, No. 1150, and No. 1151, to the desk and ask unanimous consent those modifications be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I have now three pending amendments that have been modified, is that correct?

The PRESIDING OFFICER. Does the Senator wish to make those amendments pending?

Mr. MCCAIN. Mr. President, I believe they are not pending.

The PRESIDING OFFICER. The amendments have been filed for future consideration.

Mr. MCCAIN. Yes. That is fine. The modifications to the filed amendments have been agreed to.

I would like to make a statement about rail security legislation and then, after conversations with Senator GREGG, bring up an amendment on UAVs, which is filed, and then have two additional amendments pending, because I am afraid I may need up-or-down votes.

I am pleased the Senate continues to make progress on the Department of Homeland Security appropriations bill. It is important that we adequately fund this Department and its essential programs which are critical to our Nation's efforts to secure our homeland as we fight the war on terrorism.

In addition to this funding measure, legislation authorizing security efforts is equally important. I am particularly concerned about an authorizing bill the Senate passed by unanimous consent in the 108th Congress, but which has not yet been enacted. Earlier this week I introduced the Rail Security Act of 2005, legislation that is nearly identical to the rail security bill that passed the Senate last year, as I say, unanimously. I sincerely hope we once again pass this important legislation and, given current events, the sooner we act, the better. Rail security must be made a top priority in this Congress.

I would like to mention the Rail Security Act we passed in the 108th Congress was the product of numerous hearings in the Commerce Committee, with expert witnesses and with administration support. So that is why I believe it should have relatively little controversy associated with it.

We are all deeply saddened by the tragic loss of life caused by the terrorist attacks in London last week. Those instances are a painful reminder of the cruel nature of our enemies in this war and of what we must do to fight and win against those who wish to eradicate our way of life. I have said on many occasions that we cannot just play defense in this war, that instead we must take the fight to the enemy. Still, we must do what is possible to

protect Americans at home. The London bombings and the attacks on Madrid's commuter rail system last year demonstrate all too vividly the continuing need for this legislation.

We have taken considerable action to address aviation security and devoted significant resources to that mode. I think all would agree aviation is safer now than before 9/11. However, since the terrorist attacks nearly 4 years ago, only relatively modest resources have been dedicated to rail security. Our Nation's transit system, Amtrak, and the freight railroads, I am sad to say, remain vulnerable to terrorist attacks, this despite the fact that the Department of Homeland Security has identified as potential terrorist targets the freight and rail passenger networks, which are critical to the Nation's transportation system and national defense.

The 9/11 Commission, in its report on the facts and circumstances surrounding the 9/11 attacks, called for improved security in all modes of transportation, noting that "terrorists may turn their attention to other modes."

The Rail Security Act would authorize a total of almost \$1.2 billion for rail security. More than half of this funding would be authorized to complete tunnel safety and security improvements at New York's Penn Station, which is used by over 500,000 transit, commuter, and inner city passengers each workday. The legislation would also establish a grant program authorized at \$350 million to encourage security enhancements by the freight railroads, Amtrak shippers of hazardous materials, and local governments with security responsibility for passenger stations not owned by Amtrak.

Further, DHS would be required to complete a vulnerability assessment of the rail network to terrorist attack, and make recommendations to Congress for addressing security weaknesses. Importantly, to protect the taxpayers' interests, all Amtrak authorizations would be managed by the Department of Transportation through formal grant agreements.

We face a dedicated, focused, intelligent foe in the war on terrorism. This enemy will probe to find our weaknesses and move against them. We have seen the vulnerability of rail to terrorism in other countries and the devastating consequences of such an attack. It is essential we move expeditiously to protect all the modes of transportation from potential attack.

Also, at this time I ask unanimous consent that the Senator from Delaware, Mr. BIDEN, be listed as a cosponsor of the Rail Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I thank the Senator for his cosponsorship of this legislation, particularly given that Mr. BIDEN travels daily on the rails, back and forth to his home in Delaware.

I trust the Senate will move quickly to once again pass this essential legis-

lation. We owe at least that much to the American people as we continue our struggle against an enemy that wants nothing less than to destroy everything we stand for and believe in.

AMENDMENT NO. 1151, AS MODIFIED

Mr. MCCAIN. I ask unanimous consent to set aside pending legislation and take up amendment 1151 as modified, UAVs at the southwestern border.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1151, as modified.

The amendment is as follows:

(Purpose: To specify how certain vehicles are to be deployed to enhance border security)

On page 61, line 26, insert "which may be deployed between ports of entry along the southwestern border of the United States, taking into consideration the particular security risks in the area and the need for constant surveillance of such border," after "unmanned aerial vehicles,".

Mr. MCCAIN. Mr. President, despite the worthy efforts that have been made to secure our homeland, much remains to be done. I, for one, do not believe we can ever expect to fully secure our Nation until we enact comprehensive immigration reform that includes strong and effective enforcement requirements. We cannot accomplish that in this pending bill, but in the meantime we can still take additional measures to better secure our border.

I commend the chairman, subcommittee chairman, and the ranking members for putting forward an appropriations bill that includes a number of sound border security funding provisions. One area I would like to see strengthened, as is proposed by this amendment, is to ensure we are more fully monitoring the southwestern border where most of the illegal crossing and needless deaths occur annually.

Let me cite a few of the more alarming statistics about what is going on in the southwestern border region. Over 300 people died in the desert last year trying to cross the border. About 200 of those deaths occurred in the Arizona desert. The Border Patrol is currently apprehending approximately 1,300 undocumented immigrants a day in Arizona. This number is expected to rise. An estimated 3,000 people enter the United States illegally from Mexico every single day. Last year, 1.1 million illegal immigrants were caught by the Border Patrol and more than half of those were in the State of Arizona. The Border Patrol releases more than 90 percent of the people they catch through voluntary repatriation, because the system is simply overwhelmed.

I want to repeat that, Mr. President. Anybody who has visited our border and seen those wonderful men and women who serve there in the Border Patrol and Immigration will agree they are simply overwhelmed.

We have our work cut out for us. We need more manpower and better focused technology. This legislation provides some needed funding for both, but I hope by the time it passes the Senate that we redirect some of the \$31.8 billion in this bill to allow us to fulfill a commitment we made just 7 months ago as part of the intelligence reform legislation. In that law we authorize for the coming year 2,000 more Border Patrol agents, twice as many as would be provided for in the underlying bill, and 8,000 detention beds, 5,790 more than provided for in the bill before us.

I filed amendments to fulfill these authorized levels and would like to work with the bill managers to address these important security issues.

Another area of particular concern along the southwestern border, particularly to Arizonans, since our State is now the leading gateway to illegal entry, is the Federal Government's use of technologies that are already available to strengthen our security efforts.

Manpower alone is not the answer when we are dealing with a 6,000-mile border area. The February grounding of the unmanned aerial vehicles, UAVs, in southern Arizona sent the absolute wrong message to those seeking to illegally enter our country. They are a helpful and needed deterrent to illegal entry and have been very useful in helping to monitor and better secure our southern border. Halting this program even temporarily needlessly jeopardizes our citizens and Nation.

The temperature today on the border between Arizona and Mexico is probably, in the middle of the day, 120 degrees. It is awfully hard on Border Patrol people, and there is no way we can patrol these hundreds of miles of border simply with ground vehicles. UAVs have proved extremely effective in Afghanistan, Iraq, and other places in the world. Clearly it would have tremendous utility in monitoring what is happening along our borders, not only to prevent illegal crossings but also, once those crossings are made, to track down and arrest those who are doing so. And as is well known, not everyone who is crossing the border is simply coming for a job. We have significant drug trafficking, and the Director of the FBI has stated that we are apprehending more and more citizens of "countries of interest" that are crossing our borders as well.

In our efforts to counter terrorism and promote national security, it is essential that we use all appropriate assets available to ensure the safety of our citizens and the security of our borders. As we learned through extensive military operations, UAVs have proven to be a highly effective aerial surveillance system that can be used as a force multiplier in coordination with other air and ground surveillance technologies. Of course, we should work to ensure the most effective UAV technologies are employed over the border, but it is important that some form of UAV be deployed in the short term to

augment ongoing enforcement efforts. Grounding the UAVs also creates a perception in an already volatile border region that the Federal Government is abandoning its responsibilities.

We are now into our fifth month with grounded UAVs at the southern border, and I find this inexcusable and unacceptable. A UAV program not only helps to deter illegal immigrants but also maximizes the effectiveness of our law enforcement agents on the ground.

I commend the bill managers for recognizing the need for UAVs and hope they can agree to support my amendment that will make clear to DHS that the funding provided in this bill is not to support grounded technologies but, rather, is provided to support a robust UAV program that best meets the area's security risks while recognizing the need for constant surveillance along the southwestern border.

I urge my colleagues to support this amendment to ensure UAV surveillance at the Nation's borders and maximize our law enforcement efforts.

Mr. President, it is my understanding that the managers of the bill would agree to this amendment by voice vote at the appropriate time, but I would clearly await the presence of the managers before proceeding.

Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1150, AS MODIFIED

Mr. MCCAIN. Mr. President, I call up amendment No. 1150 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1150, as modified.

Mr. MCCAIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) The amount appropriated for salaries and expenses by title II under the heading "CUSTOMS AND BORDER PROTECTION" is increased by \$367,552,000, all of which may be made available to hire an additional 1,000 border patrol agents.

(b) The amount appropriated by title III for State and local grants under the heading "STATE AND LOCAL PROGRAMS" is reduced by \$367,552,000.

Mr. MCCAIN. Mr. President, despite worthy efforts to secure our homeland, much remains to be done, and I do not believe we can expect to secure fully our Nation until we enact comprehensive immigration reform that includes strong and effective enforcement requirements.

I commend the chairman and subcommittee chairman and ranking members for putting forward an appropriations bill that includes a number of

important border security funding provisions. Clearly, they do not have an easy job. And I know they have worked to fund critical homeland security needs.

One area that I strongly believe should be strengthened, however, concerns the number of Border Patrol agents as they play one of the most critical roles in securing our homeland.

To help my colleagues to understand the great need for more manpower, let me cite just a few of the more alarming statistics about what is going on in the southwestern border region. Over 300 people died last year; an estimated 3,000 people enter the United States from Mexico every day. A few weeks ago, 79 people were found in a Phoenix alley crammed into a commercial horse trailer. The heat was over 100 degrees, and they had been there for several days. Of the 79, 11 were children, including a 4-month-old baby. At the beginning of the summer, when the temperature in the desert rose unexpectedly, 12 people died crossing into Arizona in 1 weekend.

Mr. President, we have our work cut out for us. We need more manpower and better focused technology. This legislation provides some needed funding for both. But I hope that by the time it passes the Senate, we redirect some of the \$31.8 billion in this bill to allow us to fulfill a commitment we made just 7 months ago as part of the intelligence reform legislation.

Mr. President, a dangerous state of lawlessness exists along the southwestern border, and it has become increasingly volatile. The Federal Government's inability to stem the illegal traffic flowing across the border has shifted substantial financial and social burdens to residents of the border region. Recent action by minutemen along the Arizona border provided the Nation with an image of the frustration felt by many Americans.

Border States are suffering from the immediate and downstream problems associated with illegal immigration. Our hospitals are burdened with enormous uncompensated costs, and so are our State and local law enforcement agencies. We simply need more manpower to protect the border in the near term. While I strongly believe that once we fix our broken immigration system, we will see the day that some of our border resources can be shifted to other priorities, until then Congress must have the will to take the action needed to reform our broken immigration system. We need to have a robust Border Patrol force hired, trained, and on the job.

While providing solid resources to state and local officials to ensure the readiness of our first responders is imperative, the men and women serving in the Border Patrol are literally on the front lines in the fight to keep the terrorists out of our country. CIA Director Muller has said that more and more people from "countries of interest" are looking at our southwest border as a possible point of entry into the

United States. Why shouldn't they. Hundreds of thousands and potentially millions of migrants who enter the United States illegally each year to work represent the perfect cover for potential terrorists. Of course, if others have offsets to suggest, that would be preferable. I am open to any and all options that will enable us to meet the full level of Border Patrol agents so desperately needed on the front lines.

Mr. President, I am aware that the managers are not in agreement with this amendment, and that is why I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1171, AS MODIFIED

Mr. MCCAIN. Mr. President, I call up amendment No. 1171 as modified.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 1171, as modified.

The amendment is as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) The amount appropriated for salaries and expenses by title II under the heading "IMMIGRATION AND CUSTOMS ENFORCEMENT" is increased by \$198,990,000, all of which may be made available to add an additional 5,760 detention beds and additional positions or FTEs in the United States.

(b) The amount appropriated by title III for State and local grants under the heading "STATE AND LOCAL PROGRAMS" is reduced by \$198,990,000.

Mr. MCCAIN. Mr. President, the situation on our borders, as I have said, has reached a critical juncture. I have given the statistics. The Border Patrol releases more than 90 percent of the people they catch. I want to repeat that. The Border Patrol releases through voluntary repatriation more than 90 percent of the people they catch because the system is overwhelmed. That probably sounds unbelievable to most Americans. The unfortunate reality is that the Border Patrol simply cannot take into custody the vast number of people that are apprehended. Because of this, they must prioritize. Due to space limitations, our Federal agents rightly give a higher priority to aliens who represent potential criminal threats.

Mexican nationals who are apprehended are usually returned to Mexican Government officials, voluntarily taken back across the border, and, in the case of a recent pilot program, repatriated to the interior of Mexico with the hope they are less likely to risk crossing again.

However, foreign nationals from other countries often get off much easier. Because of the lack of detention space, the fact that their home countries are farther away, and limitations in our immigration laws, nationals from Guatemala, El Salvador, Brazil, and a number of other countries are frequently apprehended by Federal offi-

cials, given a court summons to report to deportation proceedings, and released.

Mr. President, let me tell you that again. They are apprehended, they find out they are from Brazil, they say, OK, show up in court, show up in court inside the United States, and then they are released. How many of those do you think we ever see again?

The reality has become demoralizing to the men and women serving in the Border Patrol. Word about this loophole has quickly traveled back to Central and South American countries. Summonses to report to deportation proceedings are frequently called "permisos" or permission slips. Smugglers now take migrants as far as they can and tell them to approach the first Border Patrol agent they see and turn themselves in. After migrants obtain their permiso, they are then free to continue their journey to Chicago, New York, or wherever there is a job or a family member awaiting them.

One result of this loophole has been a dramatic increase in the number of Brazilians crossing the border illegally.

Fox News channel, Monday, July 11, 2005. "Other Than Mexicans? Welcome to America."

LOS ANGELES.—For many people around the world, the U.S.-Mexico border is a doorway to opportunity—one that's unlocked and wide open.

Brazilians, Chinese, Pakistanis and many others are joining the tide of Mexicans who sneak across every day.

"OTMs include people from all over the world—South America, the Middle East, the Caribbean," explained former Immigration and Naturalization Service Special Agent Michael W. Cutler, currently a fellow at the Center for Immigration Studies. "Anyone other than Mexican is an OTM."

In 2001 5,251 "OTMs" were caught crossing over from Mexico. Last year the number was more than 35,000.

In the first eight months of this fiscal year, it's up to 70,000 already—230 people a day—and they're only the ones getting caught.

"The vulnerability of a porous border is a security problem, and we always have to be concerned the real bad guys will exploit these vulnerabilities," said Frank Sharry, executive director of the National Immigration Forum.

Critics are concerned at the way OTMs are handled.

Mexicans are processed and sent back across the border within a few hours but Mexico won't allow the United States to send them citizens from other countries—and under U.S. law they're entitled to a deportation hearing.

Because the immigration service lacks prison beds to hold them, the vast majority of OTMs are released from custody and asked to voluntarily return for their court date—which the majority of them obviously do not do.

"They are given a piece of paper called a notice to appear, which administratively starts the ball rolling for a deportation hearing," said Cutler. "Not surprisingly, fewer than 15 percent show up."

"Our bureaucracy is not up to the challenge of protecting this country, our Congress is not dealing with the reality in a 21st Century way, our immigration laws are terribly out of place," commented Sharry.

So what's the answer? While some say more legal immigration is needed, others want the borders effectively closed. Both sides seem to agree that giving illegal immigrants a free pass is no solution at all.

I read from another article, "Loophole to America":

In the silvery-blue light of dusk, 20 Brazilians glided across the Rio Grande in rubber rafts propelled by Mexican smugglers who leaned forward and breast-stroked through the gentle current.

Once on the U.S. side, the Brazilians scrambled ashore and started looking for the Border Patrol. Their quick and well-rehearsed surrender was part of a growing trend that is demoralizing the Border Patrol and beckoning a rising number of illegal immigrants from countries beyond Mexico.

"We used to chase them; now they're chasing us," Border Patrol Agent Gus Balderas said as he frisked the Brazilians and collected their passports late last month.

What happened next explains the odd reversal.

The group was detained overnight and given a court summons that allowed them to stay in the United States pending an immigration hearing. Then a Border Patrol agent drove them to the McAllen bus station, where they continued their journey into America.

The formal term for the court summons is a "notice to appear." Border Patrol agents have another name for it. They call it a "notice to disappear."

Of the 8,908 notices to appear that the immigration court in nearby Harlingen issued last year to non-Mexicans, 8,767 failed to show up for their hearings, according to statistics compiled by the Justice Department's Executive Office of Immigration Review. That is a no-show rate of 98 percent.

The problem is that U.S. immigration authorities are short on detention space. They can send Mexicans back across the border within hours. But international law prohibits them from sending non-Mexicans to Mexico. Instead, they must arrange travel documents and flights directly to the immigrant's country of origin. The process, which the U.S. government pays for, takes weeks or even months.

The result is an unintended avenue of entry for a rapidly growing class of illegal immigrants from Central and South America who now see the Border Patrol more as a welcome wagon than a barrier.

It is one example of the tears in the "seamless web of enforcement" that immigration authorities vowed to establish along the U.S.-Mexico border during the 1990s, when they spent billions of dollars on strategically placed lights, sensors, roads, fences and agents. It also helps explain why the nation's illegal immigrant population has grown to record levels despite the buildup.

The morning after Agent Balderas encountered the 20 Brazilians, another Border Patrol agent drove them to the McAllen bus station where they headed toward their destinations. They were armed with notices to appear that carried them safely past Border Patrol checkpoints.

Two days later, Graice De Oliveira-Silva and three companions from Brazil were working for her relatives' house-cleaning business in Atlanta.

It is a world turned upside down for the Border Patrol, especially here in South Texas. Back in 1985, things were so different that a woman was convicted on charges that she drove illegal immigrants from El Salvador around the Border Patrol and to the same McAllen bus station.

Now smugglers operate with impunity. After their loads of immigrants splash



ashore, the smugglers slip back across the river.

As word of this border loophole filters back to Central and South America, the volume of people coming to exploit it is likely to grow, according to Border Patrol agents.

A Guatemalan arrested late last month in the McAllen sector who gave his name as Hugo said that when word gets back home, "Anyone who has a little money will be coming."

Mr. President, I ask unanimous consent both articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From FoxNews.com, July 11, 2005]

#### OTHER THAN MEXICAN? WELCOME TO AMERICA

LOS ANGELES.—For many people around the world, the U.S.-Mexico border is a doorway to opportunity—one that's unlocked and wide open.

Brazilians, Chinese, Pakistanis and many others are joining the tide of Mexicans who sneak across every day.

"OTMs include people from all over the world—South America, the Middle East, the Caribbean," explained former Immigration and Naturalization Service Special Agent Michael W. Cutler, currently a fellow at the Center for Immigration Studies. "Anyone other than Mexican is an OTM."

In 2001, 5,251 "OTMs" were caught crossing over from Mexico. Last year, the number was more than 35,000.

In the first eight months of this fiscal year, it's up to 70,000 already—230 people a day—and they're only the ones getting caught. Hundreds more make it across undetected, experts believe.

"The vulnerability of a porous border is a security problem, and we always have to be concerned that the real bad guys will exploit those vulnerabilities," said Frank Sharry, executive director of the National Immigration Forum.

Critics are concerned at the way OTMs are handled.

Mexicans are processed and sent back across the border within a few hours but Mexico won't allow the United States to send them citizens from other countries—and under U.S. law, they're entitled to a deportation hearing.

Because the immigration service lacks prison beds to hold them, the vast majority of OTMs are released from custody and asked to voluntarily return for their court date—which the majority of them do not do.

"They are given a piece of paper called a notice to appear, which administratively starts the ball rolling for a deportation hearing," said Cutler. "Not surprisingly, fewer than 15 percent show up."

"Our bureaucracy is not up to the challenge of protecting this country, our congress is not dealing with the reality in a 21st-century way, our immigration laws are terribly out of place," commented Sharry.

So what's the answer? While some say more legal immigration is needed, others want the borders effectively closed. Both sides seem to agree that giving illegal immigrants a free pass is no solution at all.

[From SignOnSanDiego.com, June 4, 2005]

#### LOOPHOLE TO AMERICA

(By Jerry Kammer)

MCALLEN, TX.—In the silvery-blue light of dusk, 20 Brazilians glided across the Rio Grande in rubber rafts propelled by Mexican smugglers who leaned forward and breaststroked through the gentle current.

Once on the U.S. side, the Brazilians scrambled ashore and started looking for the

Border Patrol. Their quick and well-rehearsed surrender was part of a growing trend that is demoralizing the Border Patrol and beckoning a rising number of illegal immigrants from countries beyond Mexico.

"We used to chase them; now they're chasing us," Border Patrol Agent Gus Balderas said as he frisked the Brazilians and collected their passports late last month.

What happened next explains the odd reversal.

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The problem is that U.S. immigration authorities are short on detention space. They can send Mexicans back across the border within hours. But international law prohibits them from sending non-Mexicans to Mexico. Instead, they must arrange travel documents and flights directly to the immigrant's country of origin. The process, which the U.S. government pays for, takes weeks or even months.

The result is an unintended avenue of entry for a rapidly growing class of illegal immigrants from Central and South America who now see the Border Patrol more as a welcome wagon than a barrier.

It is one example of the tears in the "seamless web of enforcement" that immigration authorities vowed to establish along the U.S.-Mexico border during the 1990s, when they spent billions of dollars on strategically placed lights, sensors, roads, fences and agents. It also helps explain why the nation's illegal immigrant population has grown to record levels despite the buildup.

The morning after Agent Balderas encountered the 20 Brazilians, another Border Patrol agent drove them to the McAllen bus station where they headed toward their destinations. They were armed with notices to appear that carried them safely past Border Patrol checkpoints.

Two days later, Graice De Oliveira-Silva and three companions from Brazil were working for her relatives' house-cleaning business in Atlanta.

It is a world turned upside down for the Border Patrol, especially here in South Texas. Back in 1985, things were so different that a woman was convicted on charges that she drove illegal immigrants from El Salvador around the Border Patrol and to the same McAllen bus station.

Now smugglers operate with impunity. After their loads of immigrants splash ashore, the smugglers slip back across the river.

As word of this border loophole filters back to Central and South America, the volume of people coming to exploit it is likely to grow, according to Border Patrol agents.

Apprehension statistics bolster their assertion. Arrests of non-Mexicans along the U.S.-Mexico border totaled 14,935 in 1995, 28,598 in 2000 and 65,814 last year. In the first eight months of this federal fiscal year, which began Oct. 1, more than 85,000 have been apprehended. Nearly all are no-shows at their court hearings, but comprehensive federal figures are not available.

Statistics aren't the only evidence. Interviews with immigrants caught sneaking across the border recently suggest the problem will only increase as Central and South American migrants learn of the unintended opportunity.

"We thought they were going to deport us," said Celdy Milady Canales Alvarez, a 22-year-old Honduran recently arrested by the Border Patrol in the McAllen sector. She said a cousin in Atlanta had encouraged her to make the trip. So she quit her \$50-a-week job sewing shirts and pants that are exported to the United States and crossed the border.

A Guatemalan arrested late last month in the McAllen sector who gave his name as Hugo said that when word gets back home, "Anyone who has a little money will be coming."

In his office on Capitol Hill, Rep. Silvestre Reyes, D-Texas., fumed at the news from South Texas and called for emergency measures similar to those he adopted in 1989, when he was the Border Patrol's agent in charge of the McAllen sector.

"We need somebody with a stiff spine who can make a decision and say, 'We're going to build a temporary detention facility,'" Reyes said. "We need to send a message that anybody who crosses that border illegally is going to be detained. That message gets back (to the sending countries) instantaneously."

Sixteen years ago, Reyes faced a rush of immigrants fleeing the violence of Central American civil wars. Most of their asylum claims were rejected, but only after the migrants had moved far away, armed with notices to appear in court.

"They were coming across and flagging my men down," Reyes said. "It was destroying their morale."

He got permission from the commissioner of the old Immigration and Naturalization Service to establish a temporary tent city with several thousand beds for detained immigrants. That measure, coupled with an increase in the number of agents at key border crossing points, shut off the flow, Reyes said.

But the current director of immigration detention and removal operations in South Texas wants nothing to do with such emergency measures.

"Anytime you have temporary facilities, you have a degradation of services, you have anxieties," said Marc Moore, who administers 1,700 detention spaces.

Reyes reacted angrily to Moore's remarks. While a temporary facility would be expensive and might not be as tidy as Moore would like, Reyes said, "All these things are worth it given the alternative of the permiso syndrome."

Central and South Americans call the notice to appear their "permiso," which in Spanish means permission slip.

About 19,450 immigration detention beds are available nationwide under funding levels established by Congress. Although that is twice the number of beds Congress funded a decade ago, it is far less than the number needed.

With the shortage of beds, immigration authorities must choose between using a bed to hold a migrant with a serious criminal record in the United States or one who has come across the border without a criminal record. It's an easy choice. They release the immigrant without the criminal record.

Many Border Patrol agents express frustration over the dilemma. They also worry that the high volume of non-Mexicans is taking up much of their time and might be making it easier for potential terrorists to slip past. Some said they spend much of their 10-hour shift processing non-Mexicans.

One night last month when six agents were processing non-Mexicans at the Border Patrol's Rio Grande City station, for example,

only seven agents were patrolling the 84 miles of river under their watch.

Agent Isidro Noyola, who that night detained illegal immigrants from Brazil and Honduras, said, "Our fear is that when we are processing and not patrolling the border, somebody else is going to be coming through."

Another agent expressed astonishment at the cheekiness of some of the migrants.

"They come up to you and say, 'I want my permiso.'" Agent Larry Alvarez said. "They want us to hurry up and get them out of here."

Others with the Border Patrol complained that they are being reduced to little more than gun-toting travel agents in uniforms.

In particular, the growth in the number of Brazilians taking advantage of the loophole has been spectacular, largely because of that country's poor economic conditions. In 1995, the Border Patrol detained 260 Brazilians along the Mexican border. Five years later, the number had grown to 1,241. But over the past eight months, it has soared to some 22,000.

The number of Brazilians floating north over the Rio Grande might continue to increase because of a prime-time soap opera in Brazil whose central character is smuggled across the Mexican border and finds work as an exotic dancer in Miami.

Since its first episode aired in March, "America" has become Brazil's most popular "telenovela." In a country of 178 million, it has an audience of some 60 million.

Mr. MCCAIN. I am not sure this amendment will solve that problem, but I do believe a clear case is made for more detention beds. The underlying bill adds 2,240 new detention beds for fiscal year 2006. The amendment I am offering today further increases the number of detention beds by 5,760 beds, bringing the number of new beds to the level we authorized 7 months ago in the Intelligence Reform and Terrorism Prevention Act of 2004.

Lest there be any mistake made about me authorizing on an appropriations bill, this is authorized by the Intelligence Reform and Terrorism Prevention Act, as is the previous amendment.

I look forward to working with the managers of the bill on both of these amendments. I am grateful the first amendment I proposed has been agreed to.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1183 WITHDRAWN

Mr. SCHUMER. Mr. President, I ask that amendment 1183 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1183.

Mr. SCHUMER. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding to counter man portable air defense systems)

On page 91, line 23, insert before the period "": *Provided further*, That of the total funds made available under this heading, not less than \$140,000,000 shall be for activities to demonstrate the viability, economic costs, and effectiveness of adapting military technology to protect commercial aircraft against the threat of man portable air defense systems (MANPADS).

Mr. SCHUMER. I now ask that amendment 1183 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1183) was withdrawn.

#### AMENDMENT NO. 1184, AS MODIFIED

Mr. SCHUMER. Mr. President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I rise to call up amendment 1184, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. BOXER, proposes an amendment numbered 1184, as modified.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To encourage the Secretary of Homeland Security to designate an agency within the Department of Homeland Security as having responsibility for countermeasures for man portable air defense systems (MANPADS))

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Upon completion of the Department of Homeland Security's operational testing of man portable air defense system (MANPAD) countermeasure systems for commercial aircraft, the Secretary of Homeland Security is encouraged to designate an agency within the Department as having responsibility for managing the procurement and installation of such systems, and may use any unobligated funds provided under title I to establish an office within the designated agency for that purpose.

Mr. SCHUMER. Mr. President, this amendment is about something the Senator from California and I have long cared about, arming our planes with Stinger missiles.

It is my understanding the managers of the bill have cleared the modified text. I ask unanimous consent the amendment as modified be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1184), as modified, was agreed to.

#### AMENDMENT NO. 1189

Mr. SCHUMER. Mr. President, I rise to call up amendment No. 1189.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mr. LIEBERMAN, proposes an amendment numbered 1189.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that certain air cargo security programs are implemented, and for other purposes)

On page 69, beginning on line 2, strike \$4,452,318,000 and all that follows through "That" on line 5, and insert the following: "\$4,754,299,000, to remain available until September 30, 2007, of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That of the amount made available under this heading, not to exceed \$2,000,000 shall be available to carry out section 4051 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 10809458; 118 Stat. 3728): *Provided further*, That of the amount made available under this heading, not to exceed \$100,000,000 shall be available to carry out the improvements described in section 4052(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 10809458; 118 Stat. 3728): *Provided further*, That of the amount made available under this heading, not to exceed \$200,000,000 shall be available to carry out the research and development described section 4052(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 10809458; 118 Stat. 3728): *Provided further*, That".

Mr. SCHUMER. Mr. President, my amendment addresses the issues of air cargo security and how we need to be doing much more to protect our Nation's skies. Right now, TSA security procedures leave a staggering 95 percent of cargo on passenger and all-cargo flights unscreened. In addition, TSA security regulations are voluntary and go unenforced.

My amendment provides a total of \$302 million for fiscal year 2006 to improve air cargo security. We all know not only are there planes that carry cargo exclusively but most commercial flights have cargo in the belly of their plane.

I ask a rhetorical question: What good does it do to make sure all of the passengers onboard the plane are screened so that there are no explosives or any other weapons, yet allow cargo that would ride in the belly of the plane to not be screened 19 out of 20 times, thus keeping every passenger on that plane, as well as the pilots and everyone else, at risk? The answer is obvious. It makes no sense.

For all the money we have put into passenger screening, we are leaving a gaping hole alongside, and that is cargo screening. While passenger screening has, indeed, improved rather significantly—anyone who goes to any airport in this country knows that—cargo security has not.

My amendment gives \$200 million to improve the existing air cargo security measure and \$100 million for a competitive grant program to fund private research and development into air cargo

security technology, and \$2 million to fund a pilot program to evaluate the use of blast-resistant cargo containers in commercial and all-cargo aircraft.

Last year, I was proud to join our good friend, former Senator Hollings from South Carolina, in cosponsoring an amendment included in the Intelligence Reform and Terrorism Prevention Act and signed into law by the President, authorizing these exact funding levels, totaling almost \$1 billion over 3 years to improve air cargo security.

My amendment would fully fund 1 year of the 3 years of authorization. This is the second step in something that this body has found very necessary; that is, adequately protecting us from terrorists who might put bombs, explosives, or whatever in air cargo. The potential threat from unchecked air cargo is just as serious, just as dangerous as a threat from an actual terrorist boarding a commercial flight.

It has been reported that TSA considers the likelihood of a terrorist bombing a passenger airplane to be between 35 and 65 percent. It is the likely primary aviation target for terrorists.

An analysis done by the RAND Corporation on security measures at Los Angeles International Airport determined that a bomb smuggled onto a passenger plane by a passenger but through uninspected cargo posed the greatest threat relative to other types of attack. RAND determined it would be the most likely to succeed and, unfortunately, the most likely to kill the most people.

Twenty-six percent of all air cargo in the United States is not carried on cargo planes but rather on passenger flights, and only a tiny fraction of that is inspected. Even more cause for alarm is the fact that 46 percent of all international air cargo is carried on international cargo flights. The best way to protect against biological, chemical, or nuclear weapons being smuggled onto a flight is to ensure that as much cargo as possible is screened through advanced detection systems. However, TSA only screens 5 percent of the nearly 3 billion tons of cargo carried on commercial flights each year.

My amendment does three things. It gives \$200 million to improve existing air cargo security measures, in addition to the \$50 million already recommended by the committee for air cargo security activities.

Right now, TSA's principal means for checking cargo are through known shipper programs where so-called "trusted" shippers can avoid additional screening in exchange for following stricter security protocols. However, TSA does little to ensure that shippers are trustworthy and have adequate security measures in place. In addition, enrollment in a known shipper program is voluntary, with only a third of domestic shippers currently participating. Since the TSA screens such a

small percentage of cargo, it is very likely something could be missed.

It is clear we need an additional line of defense. That is why I am proposing such a significant investment in new screening equipment and security infrastructure so the TSA can check more cargo and protect more flights.

Second, the amendment adds \$100 million for the Secretary of Homeland Security to establish and carry out a competitive grant program to encourage the development of advanced air cargo security technology. The amendment will fund research into new cargo screening technology, including the use of x rays, CT scans, and chemical trace detection to speed up the screening process and allow more cargo to be screened more effectively.

Third, my amendment would fully fund a pilot program to evaluate the use of blast-resistant cargo containers, cargo baggage containers. You put the baggage in a container and even if, God forbid, it explodes, it cannot damage the plane. The 9/11 Commission recommended every passenger aircraft have at least one hardened container in which questionable or suspicious cargo can be shipped to reduce or eliminate the risk to passengers in the case of an explosion.

I know there are many competing demands for Homeland Security funding, but we are not investing enough time, effort, and resources into air cargo security. This amendment will help address this critical area. I hope my colleagues will support the amendment.

#### AMENDMENT NO. 1190

Mr. SCHUMER. I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I call up amendment numbered 1190.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1190.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate \$70,000,000 to identify and track hazardous materials shipments)

On page 71, between lines 10 and 11, insert the following:

For necessary expenses of the Transportation Security Administration related to developing and implementing a system for identifying and tracking shipments of hazardous materials (as defined in section 385.402 of title 49, Code of Federal Regulations) by truck using global positioning system technology, \$70,000,000.

Mr. SCHUMER. Mr. President, this amendment is about truck security and how we need to be doing much more to protect our highways and communities from the threat of truck bombs and stolen hazardous material.

Madrid was a wake-up call for us. And now London is a second wake-up call. Obviously, there is a lot of focus on rail. I support that focus and had my amendment which was going to add another \$300 million to the \$100 million already requested in rail security, but I have joined efforts with the Senator from Alabama, Mr. SHELBY, and the Senator from Maryland, Mr. SARBANES, and the Senator from Rhode Island, Mr. REED, and others to have one mass transit amendment which will have an amount far greater than the amount I was going to propose—and we will also have a colloquy—so that money can go to more things.

The MTA, in my area, the leading mass transit agency that runs New York City subways, the Long Island railroad, Metro-North, carrying millions of passengers every year—billions of passengers every year, and millions, I guess, every week—has said they cannot spend the money on what they need, such as explosive-detecting dogs, which is one of the best types of ways to stop explosives. But that is rail security. As I said, that will come for another time in debate, I believe, tomorrow.

But what Madrid also teaches us and London also teaches us is that terrorists look for weak pressure points. If we strengthen air, they may look to rail. If we strengthen rail, they may look to trucks. If we strengthen trucks, they may look to our ports. So it is extremely important we have a multifaceted war on terror at home.

As you know, I support a strong war on terror abroad. And we are fighting a strong war on terror abroad, maybe too strong in the eyes of some. But we also have to have not only a good offense in the war on terror, we have to have a good defense. We have to look across the board. It has been a great concern of mine that we are not doing enough in various areas. I have tried to put my efforts into the areas where there is clearly a great danger compared to meager effort. Truck security is one of those areas.

My amendment gives \$70 million—not a large sum in this very large budget—to the Transportation Security Administration to develop and implement a system for identifying and tracking hazardous material shipments using global positioning system technology.

According to the 1997 Census of Interstate Commerce, 740,000 Hazmat shipments travel by truck each day in the United States. Approximately 50,000 trips are made daily by gasoline tankers, and many of them hold as much fuel as a Boeing 757. These trips often end with a late-night delivery to a deserted gas station.

Trucks also cross the country carrying potentially deadly chemicals, such as ammonium nitrate, chlorine, and cyanide. An attack with these types of chemicals could cause an even greater level of destruction because these chemicals can form clouds of

deadly fumes which would affect individuals miles away from the site of a terrorist incident.

My amendment simply provides TSA with the financial resources to look into how we go about monitoring what has been shown to us as a vulnerability within our existing plan to secure our country from terrorist threats.

Have we forgotten the initial attack on the World Trade Center in 1993 and the bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995, both of which were the result of truck bombs? While the Nation has completely revamped aviation security since the September 11 attacks—we have a longer way to go, but we have come a long way—we have done next to nothing to secure our country from the danger that can be caused by a truck filled with explosives, chemicals, or biological weapons.

Today, on their own, many of the larger trucking companies have GPS systems on their trucks, like an ever-growing percentage of American automobiles. Frankly, they have put the GPS systems on often to deal with theft as much as to deal with the threat from terrorism. The systems allow the companies to know where the trucks in the fleet are. If the truck moves off a route, the company knows. If a truck is stolen, the company knows.

I believe it is important the TSA take a similar approach and create a nationwide tracking system so that if a terrorist should steal or hijack a truck loaded with dangerous materials, we will find them quickly. It would be very similar to when a plane goes off track, we now know that. F-16s are scrambled. We have learned that here in the Capitol over the last year, twice. The same thing can be done with trucks, not very expensively.

My amendment provides TSA with tremendous flexibility and much-needed funds to address truck security and have none of the mandates or the high costs to industry that the ATA alleges.

In addition, my amendment specifically limits the type of commercial vehicles and content subject to tracking to the most dangerous and high-hazard materials. It is not going to affect every truck shipment.

Both the TSA and DOT are currently working on improving truck-tracking systems and background checks for commercial driver's licenses with a Hazmat endorsement. My amendment would help continue and build on those existing efforts, which have been slow, in part, due to lack of funding.

So I urge my colleagues to support this amendment and help close this hole in our Nation's homeland security.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, if I can get the attention of the Senator from New York, as I understand it, we

reached an understanding on your amendment No. 1184, as modified. Are you going to send a modification to the desk? We can just agree to it now.

Mr. SCHUMER. I believe I have sent the modification to the desk.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator's amendment No. 1184 be agreed to.

Mr. SCHUMER. Be?

Mr. GREGG. Be agreed to, unless the Senator wishes to oppose it.

Mr. SCHUMER. No. I think I have asked that already. But if you want to do it twice, maybe it will increase my legislative batting average.

The PRESIDING OFFICER. It has been agreed to.

Mr. GREGG. It has been agreed to? OK, we missed that.

Mr. SCHUMER. If my colleague from New Hampshire would yield, I also withdrew amendment No. 1183, as per our agreement.

Mr. GREGG. All right. Great. So that leaves us with your amendment No. 1189, dealing with air cargo, and amendment No. 1190, dealing with hazardous materials; is that correct?

Mr. SCHUMER. Correct.

Mr. GREGG. We are on the same page. That is good. That is a starting point.

#### AMENDMENT NO. 1171

Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on amendment No. 1171, Senator McCain's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. It is in order to request the yeas and nays on that amendment.

Mr. GREGG. Mr. President, I ask for the yeas and nays on amendment No. 1171.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Thank you.

#### AMENDMENTS NOS. 1189 AND 1190

Mr. President, as to the two proposals by the Senator from New York, I am going to make a point of order that both proposals exceed the budget allocation which we received. Obviously, they are well-intentioned, and they are reasonably confined compared to some of the other proposals we have received this morning in the billions of dollars. These are in the hundreds of millions—in one case even under \$100 million.

The fact is, in both instances, the Department does not believe it is necessary to do this at this time. They believe they have proposals in the pipeline which will address air cargo, and they have proposals in the pipeline which will deal with hazardous material shipments. But as of right now, they are not ready to deal with these additional dollars in a way that will use them constructively. So the Department opposes both of these proposals based essentially on the fact that they are pilot programs, and their

initiatives in these areas are not ripe enough, are not at the level of capacity yet to handle these types of dollars.

As the Senator from New York has noted, this is really a question for us, as a Congress, and for the Homeland Security agency, as an agency, to allocate resources where they can get the most return and the most effective use. And within the limited dollars we have—and they are fairly significant dollars; actually, the increase in homeland security is significant—the focus has been on areas where we think we can get constructive results quickly with the dollars put into the accounts, specifically: weapons of mass destruction, water patrol—I have mentioned this before a number of times—and other items like that.

So, Mr. President, these dollars at this time exceed the budget and, therefore, I make a point of order against each of these two amendments. And so, on each amendment, beginning with 1189, I make a point of order that under section 302(f) of the Budget Act that the amendment provides spending in excess of the subcommittee's allocation under 302(f).

The PRESIDING OFFICER. The Senator is making it against 1189?

Mr. GREGG. Yes, 1189.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I move to waive the Budget Act as applicable to 1189 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I make a budget point of order against amendment No. 1190 by the Senator from New York. It is the same point of order I just made against 1189.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I would like to spend a few moments talking about an issue of great concern, and that is transit security. I know my colleagues are working as we speak. I will be working with them—the Senator from New Hampshire; the Senator from West Virginia; my colleague, Senator SHELBY from Alabama—to raise the amount of resources devoted to transit security. The sticking point at the moment is how much we can raise these funds. I have urged a significant increase because of the significant threat.

We were all shocked last Thursday when we became aware of the news that 52 innocent transit riders in London were killed and over 700 injured in a series of cowardly attacks in the heart of London on their transit system, both on their underground system and their aboveground bus system. This horrific attack was reminiscent of other attacks in Madrid, Moscow, Israel, and elsewhere. All these attacks are specifically targeted to public transportation. We know this is a target for terrorists. We also understand that our system in the United States is still vulnerable to those types of attacks.

Every workday, 14 million Americans take a train or a bus. To put that in perspective, that is roughly 28 times the population of the State of Wyoming. Each and every day these 14 million Americans get on a bus or take a metro subway to work and to other necessary obligations and appointments. We know, quite clearly, that these transit systems are the prime target of terrorists. Subways, light rail, buses, and ferries are designed for easy access and to move large numbers of people efficiently. As a result, they do not have all the panoplies today of protection that you see at airline terminals, for example.

The facts are clear. There have already been numerous attacks on transit. We have 6,000 transit systems in the United States, with 14 million riders every workday. I do not think anyone could disagree with those facts or disagree with the fact that we have to do more to harden and protect our transit systems.

Yet the Federal Government's response to these facts has been underwhelming at best. In contrast to aviation, where we have invested \$9 in security improvements per passenger, to date we have invested roughly \$0.006 per passenger, a little over half a cent, to protect transit passengers throughout the country.

Now, I think we have to do much better. Perhaps we can never reach the level of protection for airlines because of the nature of that process—we can put screening devices in terminals; we can have elaborate followthrough in terms of passenger lists and identifying who is getting on which aircraft—but we have to do more in public transit. That is a consensus, a conclusion, I hope we all reach. Again, I think the debate today and tomorrow will be about how much we can do.

Now, I will make the case we have to do much more. I am working with my colleagues. I hope we can achieve a sufficient level of investment in transit security that is commensurate with the threat that has materialized just a few days ago, and, unfortunately, is likely to materialize again here or across the globe.

Now, after September 11, when I was serving as chairman of the Subcommittee on Housing and Transportation, I held a hearing on the topic of

transit security. At that time it was clear that we needed to do more than simply rely on the Federal Transit Administration, whose expertise is building systems, not essentially making them secure. Their efforts were commendable but very limited. They were reviewing security procedures. They were trying to disseminate information. But they were not able to because of their expertise as well as because of the resources needed to go in and start making significant capital improvements, supporting operational changes, doing all those things that are absolutely key to protecting our security systems, our transit systems.

After the hearing, Senator SARBANES and I asked the General Accounting Office to do a study on transit security. That report was completed in 2002. They found that one-third of all terrorist attacks throughout the world were directed against transit. Yet we have nowhere committed the resources commensurate with that level of activity. And even more telling was the GAO's conclusion that, in their words, "insufficient funding is the most significant obstacle agencies face in trying to make their systems more safe and secure."

Typically, in the United States, transit systems are local systems. They depend upon riders' fares, local and State subsidies, and all of these sources are highly constrained in terms of coming up with the extra dollars to ensure protection of the system. Because of these conclusions from the GAO report, from our hearings, Senator SARBANES and I have come to the floor on several occasions to argue for additional funding. We have done this with respect to supplemental appropriations bills. We have done it with respect to other Department of Homeland Security appropriations bills. And indeed, we also tried to suggest increased funding during the National Intelligence Reform Act debate.

I have been pleased to work with many colleagues, particularly Senator SHELBY, chairman of the Banking Committee. Last year we were able to pass authorizing legislation in the Senate that would have created a threat-based transit security policy, along with authorizing \$3.5 billion to help transit systems deter, detect, and respond to terrorist attacks. While the Senate did its part in passing the legislation, regrettably it was not passed by the House, nor was it supported with the kind of energy and enthusiasm by the administration which is so critical to achieving the objective of improved transit security. We are here again today on this legislation, in the wake of London, arguing for additional resources so that we can meet this threat to our transit systems.

There are some who might oppose these efforts. They might say it is too much money. Frankly, when you look at what has to be done—6,000 transit systems—when you look at the amount of training, the amount of capital

equipment—just in terms of communications, for example—that is a huge number. And when you measure that with the threat—a third of all terrorist attacks over the last several decades have been directed at transit, and we have seen it in Madrid, in London, in Moscow, in Tokyo, where a Japanese fanatical group attempted to disperse a chemical agent in the tunnels—the threat is there; the resources are not.

Since 1992, the Federal Government actually has invested \$68 billion to construct transit systems, but we haven't yet been able to commit ourselves to protecting those systems adequately. It has been estimated that roughly \$6 million is necessary to provide the kind of protection that at least provides a minimal level of protection. These investments range from fencing to high-tech explosive detection systems, to communication upgrades. All of these things could be put in place, enhancing significantly the security of our systems.

In the wake of London, in the wake of Madrid, in the wake of the transit attacks in Russia, I don't think it is too much to ask to spend 12 cents per transit passenger, as some amendments have proposed, to protect them.

I have also heard that we should direct all of our efforts to threat-based approaches—don't single out transit, don't single out aviation, any particular mode of transportation or infrastructure. But frankly, the attractiveness—and I say this with regret—of transit to terrorists as a target is so compelling that this argument also does not hold water.

I also hope that we can continue to support these efforts, understanding that the primary responsibility is local. These systems are local or regional. The States and the localities have an obligation. But the reality is—and I don't think I have to spend too much time saying this—most transit systems are already just scraping by in terms of keeping their ridership up, making sure fares are affordable, making sure that they can make improvements in their basic rolling stock and facilities. These additional resources for security properly could be supported by the Federal Government.

We also authorized and created a few years ago the Department of Homeland Security. It is the appropriations for that Department we are discussing today. With respect to that Department, there was an acknowledgment that the Federal Government was stepping up to the issue of protecting all of our vital infrastructure, including transit, that we do have an obligation. We have assumed that obligation with the creation of the Department of Homeland Security and other steps to protect all of our vital infrastructure. Indeed, our situation with respect to transit is one that cries out for additional resources.

The President just ordered, in the wake of London, our transit systems to go to alert level orange. The threat is

there. I hope our efforts over today and tomorrow will not only recognize this threat but match it with commensurate resources so that we can begin to seriously protect our transit systems and our riders.

One other point, too. Our transit systems—buses, subways—are integral parts of our economy. That is one reason why they are so attractive to terrorists. The attack in London was planned so that the bombs would go off right in the midst of the financial district, not only with the intent to cause the loss of life, the symbolic and psychological horror of such a dastardly act, but also to cripple the economy. If a successful attack is conducted against a transit system in a major city, it will not be measured just in terms of casualties but also in potentially huge economic losses. Our efforts today are not only sensible because of the threat, sensible because of the need to protect Americans in areas where they are vulnerable, but to avoid the kind of economic chaos that could result from a successful attack against transit.

I hope in the next few hours we can come together with support for these efforts. I know Senators BYRD and GREGG, SHELBY and SARBANES, and others, are working toward that end so we can come up with sufficient resources to meet this great threat.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1075

Mr. VOINOVICH. Mr. President, I rise today to offer amendment No. 1075 to the Department of Homeland Security Appropriations Act of 2006.

First, I acknowledge the hard work of Senators GREGG and BYRD and thank them for their diligence in coming to a consensus on this crucial legislation. The balance between enhanced security and responsible stewardship of the taxpayers' dollars is a fine one. I applaud their attention to both, and I support the legislation.

In an effort to increase the sound management of homeland security funds, I offer an amendment that would increase the funding of the Emergency Management Performance Grant Program by \$10 million. I am joined on this amendment by Senators COLLINS and LIEBERMAN, the chair and ranking members of the Homeland Security and Governmental Affairs Committee, as well as 17 other Senators. I thank them all for their support. I believe that redirecting funds to the EMPG Program, which has a proven track record, is both fiscally responsible and strategically sound.

The EMPG Program assists the emergency management agencies and pro-

grams of the States, the District of Columbia, U.S. Territories, and local and tribal governments to prepare for all hazards and disasters, both natural and manmade. The EMPG Program is the only source of Federal assistance that supports comprehensive emergency management, coordination, and planning.

Funding for this program is split 50/50 between the Federal and State governments. This unique and important program provides States and localities with the flexibility to allocate funds according to risk, which helps address their most urgent needs in disaster mitigation, preparedness, response and recovery. Most importantly, EMPG funds are also used to pay for personnel costs, including training and exercises. This aspect of the program is important given the tight budget constraints and increased counterterrorism responsibilities currently faced by State and local governments. States also have the flexibility to develop intrastate emergency management systems that encourage the building of partnerships which include government, business, volunteer, and community organizations.

As Governor of Ohio, I had first-hand experience with the EMPG Program and would note some examples that illustrate its effectiveness.

Since 2002, Ohio has issued eight major disaster declarations and two emergency declarations. The 2005 winter storm was the most widespread disaster in Ohio's history, with 59 counties declared disaster areas with damage assessments that exceeded \$260 million. EMPG funding has played a critical role in allowing Ohio State and local emergency management agencies to plan for these disasters, respond in a timely manner to those areas hit hardest, and pay the salaries of local emergency management staff.

Additionally, Ohio has elected to use a portion of the annual EMPG funding for special projects, such as local emergency operations center construction. This is one of the few funding streams that allow for brick and mortar type projects. At any given time there are several counties benefiting from the use of these dollars.

Ohio is not the only State that has benefited from the EMPG Program. For example, EMPG funds play a critical role in helping the State of Alabama develop its plans to respond to natural disasters, particularly hurricanes. EMPG grants have been used for contingency planning, including evacuation plans, debris removal plans, and plans for postdisaster distribution of critical aid to those affected by the storms.

The State of Kansas is struck by nearly 50 tornadoes every spring. Without local government emergency management staff paid for by EMPG funding, there wouldn't be adequate coordination to help respond to those tornadoes in a timely manner.

York County, ME, has had 12 declared disasters in 12 years, including

coastal flooding and severe ice storms. The York County Office of Emergency Management works with 29 towns on the full range of emergency management, including preparedness, response, recovery and mitigation. Without the help of EMPG funds they would have only one full-time person; with EMPG support they have three.

Additionally, during last year's devastating hurricane season, the EMPG Program proved its worth. The Emergency Management Assistance Compact, which is funded by the EMPG, enabled 38 States to provide \$15 million worth of aid and over 800 personnel to support Florida and the other impacted States for over 85 days.

These are just a few examples of how EMPG funds are used to help State and local governments prepare for the worst situations. They demonstrate that EMPG funds are the backbone of emergency management and disaster response in America.

Many of the people who have been involved in emergency management in the States have been impacted by the budget crisis we are experiencing in many States throughout the country. In Ohio, for example, they substantially cut back on the State funds for local and State government. Again, they are being asked to do the ordinary work that they do in emergency management and, at the same time, take on added responsibilities to deal with the issue of responding to terrorists.

I will now address how EMPG funds have been spent relative to other grant programs. The Senator from New Hampshire has noted how billions of dollars of Department of Homeland Security grant money remains unspent by State and local government. However, according to the Department of Homeland Security, EMPG funds are spent rapidly compared to other programs. In other words, there may be a problem with some of these other funds getting through to the folks who need them, but in this particular case, these moneys flow very rapidly.

In other words, if Congress appropriates extra EMPG funding, it will not go unused. Although both Congress and President Bush have recognized the importance of this program, it still faces a shortfall. The disaster relief fund is our Government's rainy day fund, and it is robust in comparison to other programs in this bill. Therefore, my amendment would take \$10 million from this \$2 billion account to increase EMPG funding. Increased EMPG funding will ensure strong management and planning prior to any disaster. In other words, when asked about the logic of taking \$10 million out of the \$2 billion account for the disaster relief fund, our arguments would be, as a result of this additional money, we can do a lot better job of preventing more of these disasters in the long run and make sure the dollars that are spent in the disaster relief fund are spent in the most efficient and effective way.

Increased EMPG funding will ensure strong management and planning prior



to any disaster. In other words, re-directing these funds will enhance the effectiveness of every disaster relief fund dollar directed toward response and recovery and ensure we get the biggest bang for the buck when it comes to Federal disaster relief funding.

Again, there are some other funds in the Homeland Security appropriations. It was our best judgment that going after the disaster relief fund was the most logical way to pay and add this \$10 million to the EMPG program.

As I mentioned, this amendment is sponsored by both the chairman and ranking member of the Homeland Security and Governmental Affairs Committee which has the oversight responsibility for homeland security, as well as 17 other Senators, including Senator GRASSLEY, chairman of the Finance Committee, which is significant.

In closing, we must prepare for terrorist attacks in addition to natural disasters. The EMPG program is a proven method of doing this. It is my strong belief that by enhancing the EMPG funding, we increase the capacity of State and local emergency management agencies to get the job done when the needs of our citizens are the greatest.

Once again I applaud the efforts of Senator GREGG and Senator BYRD, and I ask my colleagues to support increased funding for the EMPG program.

Mr. President, I was going to ask for the yeas and nays, but the fact is, we are negotiating now with Senator GREGG's staff and Senator GREGG and perhaps we can find some other language that might be more acceptable to them. I am not going to ask for the yeas and nays now. If we are unable to reach a compromise, then I will ask for the yeas and nays at a later date.

I yield the floor.

The PRESIDING OFFICER. If the Senator will withhold, does the Senator wish to request that the pending amendments be set aside so his amendment can be called up?

Mr. VOINOVICH. Yes, I do request that.

The PRESIDING OFFICER. Without objection, the amendment will be considered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH] proposes an amendment numbered 1075.

The amendment is as follows:

(Purpose: To increase funds for emergency management performance grants, with an offset)

On page 82, line 12, strike "\$180,000,000" and insert "\$190,000,000".

On page 85, line 17, strike "\$2,000,000,000" and insert "\$1,990,000,000".

Mr. VOINOVICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1218

Mr. REID. Under the authority of the agreement pending before the Senate, I send an amendment to the desk on behalf of Senator BYRD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BYRD, proposes an amendment numbered 1218.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for intercity passenger rail transportation, freight rail, and mass transit)

On page 77, line 18, strike "\$2,694,300,000" and insert "\$4,025,300,000".

On page 78, line 13, strike "\$365,000,000" and insert "\$1,696,000,000".

On page 79, strike lines 1 through 4 and insert the following:

(D) \$265,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code) and freight rail and \$1,166,000,000 for transit security grants; and

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS

Mr. GREGG. Mr. President, I ask unanimous consent the Senate stand in recess until 4 o'clock.

There being no objection, the Senate, at 3:02 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will speak to the underlying bill for a moment. I find it interesting in debating this Homeland Security appropriations bill, there have been many colleagues come to the floor expressing the intention to amend the bill to add more resources here or there or someplace else. I think it is instructive that the chairman of this subcommittee has this year determined it is beyond the time that we need to begin fully funding some of the

particular accounts that enable us to better control our border and that my colleagues are now coming, I suggest in the case of some later than I would like, but at least to the realization that we have not begun to put the resources to controlling our border and some of our other homeland areas of need that we should have.

This is a good development in the sense that we are finally beginning to realize we have not done what we should do. But I am troubled a little bit that there still is not adequate funding available to do everything we need to do on the border that I am concerned about, and that is our southwest border.

Compliments to the subcommittee and to the Appropriations Committee for substantially increasing the funding for more Border Patrol agents, for more detention space for people whom we have to detain who should not be in the United States and who cannot be returned to their country of origin immediately, for the technology which is funded here, and for all the other things we are trying to do to secure our border. Congratulations to Chairman GREGG and to the other members of the committee for doing this. For my colleagues who would like to add more, I appreciate their efforts as well because we all know that whatever we are able to do this year, it is still not going to be enough to actually gain control of our border.

One of the problems that has arisen is the problem of what the border control calls "other than Mexican" illegal immigrants. As we all know, most of the people coming across our southwestern border are from the country of Mexico, but a lot of them are simply transiting through Mexico. This population is of increasing concern to us. In fact, we were recently informed that already this fiscal year over 119,000 third-country nationals, that is third country other than Mexico, have been apprehended crossing our borders. We know there is a rough rule of thumb that three or four are not apprehended for every one that is apprehended, so you get a situation here where it is pretty clear that we have a huge influx of people coming into the United States from countries other than Mexico.

What does this mean? We know most of the people coming in from Mexico are coming for work. Perhaps some have criminal backgrounds or other nefarious purposes, but at least we don't suspect most of them are coming here for purposes of harming us. In the case of these "other than Mexican" nationals, the same thing cannot be said because between 20 or 30 of these countries are countries of special interest to the United States; in other words, countries from which terrorists have come. The question is both on the southern and on the northern border, which is equally a problem here, how many of the folks coming into this country from countries other than Mexico mean us harm?

We all know, for example, that in the days of testimony from former DHS Deputy Secretary Loy, advising the Senate Intelligence Committee, that:

[r]ecent information from ongoing investigations, detentions and emerging threat streams strongly suggest that al-Qaida has considered using the southwest border to infiltrate the United States. . . . Several al-Qaida leaders believe operatives can pay their way into the country through Mexico, and also believe illegal entry is more advantageous than legal entries for operational security reasons.

Secretary of State Rice commented later that:

We have from time to time had reports about al-Qaida trying to use our southern border. . . . [it] is no secret that al-Qaida will try to get into this country . . . by any means they possibly can. . . . [t]hat's how they managed to do it before and they will do everything they can to cross the borders.

There is at least one specific case of a terrorist having been apprehended coming into the United States.

There is more we can discuss here, much of it involving intelligence, but on both the northern and southern border there is a threat that people could come into this country and we would not be able to stop them. We wouldn't even know they are here. And clearly because of that means of entry as opposed to coming, say, from an airplane from London or another city, you could at least be carrying contraband here that could be detrimental to us in the form of a chemical or biological agent. It is even conceivable you could bring nuclear material in as well.

So the security of our borders is critical to homeland security, yet up to this year we have not had the kind of appropriations necessary to begin making a dent in the problem. I am, again, exceedingly grateful to the chairman this year for seeing to it we are able to get that funding to begin this effort.

One of the concerns about these "other than Mexican" detainees I mentioned is that, unlike the case in Mexico where we can simply send people back to the border to be returned, to be repatriated to their country, it is not that easy in the case of people from other countries. Obviously Mexico will not take them because they are not Mexicans, even though they transited through Mexico. So you have to begin a long, drawn-out process of contacting the country of origin and trying to get the paperwork in order to see if you can get the country to take the individual back, to begin that repatriation process. Some countries will not even take their people back. Other countries take a long time. What do we do in the meantime?

Obviously we need to detain those people. So we detain them—right? Wrong. There is not adequate detention space. So we give them a piece of paper and say, Come back in 90 days or 30 days, whatever the time period is, and report in so we can remove you from the United States.

Guess how many of them voluntarily return for removal to their country of

origin? The percentages differ, but you get my drift. A very high percentage choose to simply meld into American society and become part of our illegal population here.

That cannot continue. We have called repeatedly on the Department of Homeland Security to come up with a plan to ensure that we can detain these individuals until their time for removal. It has yet to come to us.

One very worthwhile program is called "expedited removal." The chief of the Border Patrol, David Aguilar, testified before my Terrorism Subcommittee recently that it is their intention and hope to begin to expand this expedited removal program to all of the Border Patrol sectors on the southern and southwestern border. There are 20-some sectors, but only two have expedited removal today, the Laredo, TX and Tucson, AZ sectors. Here is why that is important. In most cases the average time to remove one of these detainees from another country is at least 3 months. It is about 90-some days. In the case of expedited removal we can actually accomplish this within less than 30 days, so at least you lessen the time for detention. You cut that in third, by one-third, and therefore if you have to put somebody in a detention space that is federally owned, you don't have to kick somebody else out in order to detain this person. If you have to rent the space from somebody else, it is going to cost you about one-third as much. It costs about \$90 a day to house one of these detainees, and you can do that in State and local detention facilities.

The bottom line is we don't have enough of that detention space, so even today people are not being detained. They are being released on their own recognizance, told to come back when the paperwork has been developed with their country of origin so they can be returned.

That is wrong. We have to get the money to detain these folks and make sure we have a policy to do so at the same time we are trying to expand the expedited removal. There is money in this bill for that detention.

Again, I thank Senator GREGG for his alertness to this problem and willingness to put money in against the problem. But I fear the Department of Homeland Security has still not got a plan in place to both pursue the expedited removal for all sectors and, in the meantime, detain those who need to be detained.

If we should have a situation arise, as arose in England recently, in Great Britain, where people have come into the country—in this case they appear to be indigenous to the country itself—but where they have decided to engage in some act of terrorism, and it has been our own fault that we have allowed them to meld into our society illegally, then obviously we have no one to blame but ourselves.

I am calling this to the attention of my colleagues in the hope we can con-

tinue to both provide the funding the administration needs and to encourage the administration to get onto the solution of this particular problem as well.

The problem here is multipronged. I think all of us have understood that with the event in Great Britain a week ago, it illustrates to us the kind of harm that can be caused by a conventional kind of attack of terrorists. It doesn't take a major 9/11 kind of attack to create this kind of chaos. Yet it calls into question what we could do to provide total security within our homeland, because a train station, a bus station, other places of public congregation—be they shopping areas, sports events or the like—all suggest it is a virtual impossibility before the fact to provide 100-percent security. It simply cannot be done. That is why you have to try to prevent the problem from arising in the first place.

I will close by noting that part of our effort, in this appropriation bill, in order to control the border itself, is to provide a thousand new Border Patrol agents at the border, also 300 new Immigration and Customs investigators, the new enforcement agents. This bill provides 460 of those. Incidentally, all of these are in addition to numbers provided in the supplemental appropriations bill. So we have added to the number that we already acted on at the end of last year.

We fund over 40,000 positions dedicated to protecting our borders and enforcing immigration laws. To break it down, over 12,000 Border Patrol agents, 18,000 Customs and border protection officers, nearly 6,000 criminal investigators, nearly 1,300 deportation officers, 2,700 immigration enforcement agents and detention officers. We also have money for more training of Border Patrol and immigration enforcement personnel.

We have money to support the deployment of the US VISIT Program, which will help us better track the people who both come into our country and leave the country. We have over a half billion dollars for air and marine operations, as I mentioned before, money for over 2,000 new detention beds for these apprehended illegal aliens, and with the supplemental, that adds about 4,000 new detention spaces for this purpose.

We more than double the number of ports that have our container security initiative, 41 that take part in that, and nearly \$1 billion for biological countermeasures. These things, by and large, are in place to try to prevent the capability of the terrorists from pulling off an attack in the first place. They are not responding to an attack after it has occurred. We have to have responses, but our primary goal here should be to take the fight to the enemy, to try to provide the protection going in, because there is no way, once they are in the United States, to protect every bit of this wide-open and liberty-loving society. So it is better to

try to stop them before they get here, and it is better to try to degrade their ability to attack us by taking the fight to them.

That is why later on we are going to get into things such as reauthorizing the PATRIOT Act, on which we just heard testimony, as a critical component in our war on terror and protecting our homeland and other ways in which we can take the fight to the enemy. For now, this appropriations bill provides us a significant capability to stop the terrorists at our border as well as providing some internal protection in those areas that have the highest priority and for which we can get the biggest bang for the buck in terms of protection.

Again, I compliment the members of the Appropriations Committee, particularly the chairman of the Subcommittee on Homeland Security, for their attentiveness to this issue, their willingness to make a significant effort to help fight this battle.

I urge my colleagues to support this legislation when we get to that point.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that after I be recognized to speak for 10, no more than 15 minutes, Senator CLINTON of New York be recognized to speak at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

Mr. President, I just returned from a week back in my State of Illinois traveling from Chicago through downstate southern Illinois meeting with many people at Fourth of July parades, the usual standard procedure in scheduling for many Members of the Senate and Congress. Many people came to say hello, but there were a couple who stand out in my memory of that week. One was a man in southern Illinois who pulled me aside and in very quiet tones said, "Bring our troops home." And another, a man standing at O'Hare Airport, as I walked by, recognized me and said, "Support our troops."

I think in those two brief sentences we really have a lot of the public sentiment of America. Support our troops. That is clear. These are our sons and daughters. If you have been there, as I was this last March, and seen them, in Iraq, in Baghdad, risk their lives, see those fresh-faced young people who are standing there so proudly on behalf of our country, you can't help but support these men and women. You must. And we have. We should continue to do so.

But there is a growing sentiment as well that they should come home. Some say bring them home right now. I am not one of those people. I do not believe we can just end our commitment today and leave Iraq. I am afraid what would be left behind would be chaos, a training ground for terrorism that would threaten not only the Middle East but the entire world. But yet I do believe all of us feel, even the

President, that we should be looking to the day when our troops do come home and how we will reach that day because every single day we wait in anticipation of those troops coming home we are losing soldiers.

This morning's Washington Post, as it does every day, published the number of American soldiers killed in Iraq to this moment: 1,755—1,755—and more than 13,000 grievously wounded. Many of them I have met and seen. Some of the Illinois families, I have been to their funerals, met their families, dropped notes to and spoken to them. It breaks your heart to think that they have lost someone they love so much.

How do we reach this point where we can bring these troops home and feel that we have achieved what we set out to do? Well, we came up with a way to try to measure this and set us on a course for it to happen. When Congress passed the supplemental appropriations bill, we authorized \$35 billion directly associated with U.S. operations in Iraq and \$5.7 billion on top of that to train and equip Iraqi security forces. That is the way we bring American soldiers home, by training and equipping Iraqis to take their place.

That same bill required the Secretary of Defense to provide a detailed report on how the training was progressing and what U.S. troop levels would likely be by the end of the year. The report that was mandated by that supplemental appropriations bill was due in 60 days after it was enacted. The due date was July 11. Today is July 13, and we still have not received the report required by law. Some media reports the Pentagon is still working on it. Others say the report is on Secretary Rumsfeld's desk. When we call the Pentagon, the answers are conflicting.

Congress has approved over \$200 billion for the war in Iraq. Although I have had serious misgivings about the initial invasion of Iraq as to whether we had a plan for success, not just for deposing Saddam Hussein but for building a peace, while I was concerned that we did not have allies to stand with our troops soldier by soldier—only the British came forward with any substantial numbers—and while I was concerned about the American burden of this war not only in human life but in treasure, I have decided, and I think most of my colleagues agree, we will not shortchange our troops in the field.

The last time we had a supplemental appropriations bill, \$82 billion for our troops passed unanimously in the Senate. Many of us who had voted against the war voted for that money. If it were my son or daughter, I would want them to receive every single penny they needed to perform their mission, to perform as they have, and come home safely.

Despite having voted for this money, I stand here today with my colleagues in the Senate uncertain as to our progress because this report from the Pentagon which we had asked for, one

which attempts to measure how we are progressing, how the Iraqis are progressing, has still not been delivered, and it is a concern to me because I think this report really goes to the heart of what we are trying to achieve. We are trying to finally learn where we stand in Iraq, how soon our troops are likely to come home. There have been a lot of claims—150,000 Iraqi soldiers ready to come into battle—and yet when it comes to the real battles it is American soldiers—American soldiers—risking their lives. That is why we have asked for the Pentagon to tell us what progress is being made.

The conference report to the supplemental stated that a new assessment is necessary because the Pentagon's existing performance indicators and measures of stability and security in Iraq are not adequate. We have heard about these claims, how many Iraqi soldiers and policemen are ready. Police have been recruited by the tens of thousands, according to reports from the Pentagon, but many are just missing in action.

The report that we require under law asks for a detailed assessment of Iraqi military, political and economic progress. Iraqi battalions must be able to operate on their own against the insurgency, and Iraqi forces must be able to secure their own borders.

The draft of the new constitution in Iraq is due next month. The Iraqis have made some progress toward creating a new political system of government, and they had an absolutely historical election with turnout evidencing a thirst for new leadership in their country, but Iraqi unemployment may be as high as 50 percent, and some of the most fundamental things of civilized life are not there, whether it is electricity, sewage treatment, water, security in your home.

The report we asked for demands an assessment on how far we progressed toward our goals. The fact that this report has not been filed is a source of real concern. Progress in Iraq is critical to bringing America's soldiers home with a victory. This report asks our Pentagon what U.S. force levels will be needed by the end of next year. We say that if there is any part of it that needs to be classified, do so. Don't disclose anything that could jeopardize the security and safety of our troops.

An amendment has been offered by Senator REID of Nevada and Senator KENNEDY and myself, an amendment to the Homeland Security bill before us, asking that this report be provided to Congress on a timely basis. It is long overdue. This is an administration which has measured many things in terms of performance and quality. So many different agencies of our Government were held to the standard of what are you producing for the money that is being provided. What we are asking is the same type of accountability and the same type of metric when it comes to our progress in Iraq.

I would agree with many who say setting a timetable for withdrawal may be

counterproductive, but it is not unreasonable to hold the Iraqis to a timetable, a timetable to develop their government and their security force and their defense so that American soldiers can come home. I think that is reasonable. It was passed overwhelmingly on a bipartisan basis by Members of Congress.

The fact that there has been such a delay in providing this information is troubling, but I am hoping that even as I speak here today, the Secretary of Defense is preparing this report and sending it so we can learn as quickly as possible how soon our soldiers can come home to their families and those of us who love them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. I thank the Chair.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1105

Mrs. CLINTON. Mr. President, I would like to call up amendment No. 1105.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 1105.

The amendment is as follows:

(Purpose: To require an accounting of certain costs incurred by, and payments made to, New York City, the State of New York, and certain related entities, as a result of the terrorist attacks of September 11, 2001)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Not later than 15 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Director of the Federal Emergency Management Agency (including the Emergency Preparedness and Response Directorate and all other staff under the direction of the Secretary) (referred to in this section as the "Secretary"), shall provide to the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate—

(1) a detailed list that describes, as of the date of enactment of this Act—

(A) all associated costs (as determined by the Secretary) incurred by New York City, the State of New York, and any other entity or organization established by New York City or the State of New York, as a result of the terrorist attacks of September 11, 2001, that were paid using funds made available by Congress; and

(B) all requests for funds submitted to the Department of Homeland Security and the Federal Emergency Management Agency by New York City and the State of New York (including the dates of submission, and dates of payment, if any, of those requests) that have been paid or rejected, or that remain unpaid; and

(2) a certified accounting and detailed description of—

(A) the amounts of funds made available after the terrorist attacks of September 11, 2001, that remain unexpended as of the date of enactment of this Act;

(B) the accounts containing those unexpended funds; and

(C) a detailed description of any plans of the Secretary for expenditure or obligation of those unexpended funds.

(b) Not later than 15 days after the date of receipt of a request from the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate for any information in addition to information described in subsection (a), the Secretary, and such staff located in a regional office of the Department of Homeland Security or the Federal Emergency Management Agency as the Secretary determines to be appropriate, shall provide the information to the Subcommittee.

Mrs. CLINTON. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mrs. CLINTON. Mr. President, I understand Chairman GREGG and Senator BYRD have agreed to accept this amendment as modified. I ask unanimous consent that this amendment be agreed to as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1105), as modified, was agreed to, as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Not later than 15 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Director of the Federal Emergency Management Agency (including the Emergency Preparedness and Response Directorate and all other staff under the direction of the Secretary) (referred to in this section as the "Secretary"), shall provide to the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate—

(1) a detailed list that describes, as of the date of enactment of this Act, all associated costs (as determined by the Secretary) incurred by New York City, the State of New York, and any other entity or organization established by New York City or the State of New York, as a result of the terrorist attacks of September 11, 2001, that were paid using funds made available by Congress; and

(2) a detailed description of—

(A) the amounts of funds made available after the terrorist attacks of September 11, 2001, that remain unexpended as of the date of enactment of this Act;

(B) the accounts containing those unexpended funds; and

(C) a detailed description of any plans for expenditure or obligation of those unexpended funds.

(b) Not later than 15 days after the date of receipt of a request from the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate for any information directly related to information described in subsection (a), the Secretary, and such staff located in a regional office of the Department of Homeland Security or the Federal Emergency Management Agency as the Secretary determines to be appropriate, shall provide the information to the Subcommittee.

#### AMENDMENT NO. 1106

Mrs. CLINTON. Mr. President, I call up amendment No. 1106 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 1106.

Mrs. CLINTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to report to Congress regarding the vulnerability of certain facilities and measures to provide greater security, and for other purposes)

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall assess and report in writing to the Committee on Appropriations, the Committee on Homeland Security and Government Affairs, and the Committee on Commerce, Science, and Transportation of the Senate on the following:

(1) The vulnerability posed to high risk areas and facilities from general aviation aircraft that could be stolen or used as a weapon or armed with a weapon.

(2) The security vulnerabilities existing at general aviation airports that would permit general aviation aircraft to be stolen.

(3) Low-cost, high-performance technology that could be used to easily track general aviation aircraft that could otherwise fly undetected.

(4) The feasibility of implementing security measures that would disable general aviation aircraft while on the ground and parked to prevent theft.

(5) The feasibility of performing requisite background checks on individuals working at general aviation airports that have access to aircraft or flight line activities.

(6) An assessment of the threat posed to high population areas, nuclear facilities, key infrastructure, military bases, and transportation infrastructure that stolen or hijacked general aviation aircraft pose especially if armed with weapons or explosives.

(7) An assessment of existing security precautions in place at general aviation airports to prevent breaches of the flight line and perimeter.

(8) An assessment of whether unmanned air traffic control towers provide a security or alert weakness to the security of general aviation aircraft.

(9) An assessment of the additional measures that should be adopted to ensure the security of general aviation aircraft.

(b) The report required by subsection (a) shall include cost estimates associated with implementing each of the measures recommended in the report.

Mrs. CLINTON. Mr. President, I ask that Senators LAUTENBERG, CORZINE, and SCHUMER be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, this is a commonsense amendment regarding the potential threat that all of our cities and States face from the theft or misuse of general aviation aircraft by criminals or terrorists.

This amendment would require the Secretary of Homeland Security, in coordination with the Secretary of Transportation, to assess the dangers posed to high-risk, large population, and critical infrastructure areas should general aviation aircraft be stolen and used as a weapon by a criminal or terrorist.

This study would require the two Secretaries to assess the vulnerability of general aviation airports and aircraft and study what low-cost, high-technology devices could be available to better track general aviation aircraft.

Last month, a 20-year-old young man, while intoxicated and accompanied by two other individuals, breached a perimeter fence of an airport in Danbury, CT. He and his companions stole a small Cessna 172 aircraft, departed from the airport without detection, flew across the eastern border of New York, and eventually, thankfully, landed without incident at the Westchester County Airport in New York very near to my home.

What is alarming about this is that this happened, and it happened without detection. So far as we know, no one knew the aircraft had been stolen or that the joyride was taking place. This incident occurred very close to New York City, very close to Indian Point, the nuclear facility in the county. Thankfully, this particular incident ended without any damage, destruction, or death, and the individuals were eventually detained by law enforcement.

Following the incident, which, as you might imagine, happening so close to New York City involving stolen aircraft raised a great deal of concern among my constituents, I wrote to Secretary Chertoff and Secretary Mineta asking for an investigation into this incident, and I hope to hear back from them both soon. But this incident should be a forewarning of the types of threats we still face from aircraft. We have been very focused on the big commercial aircraft that many of us use on a regular basis, but we cannot forget that most aircraft are in private hands in local airports, many of them privately owned or privately leased, and that they still pose a potential danger to key infrastructure, to populated areas, and we need to be more aware of what that threat could be.

The 9/11 Commission, which looked at this, concluded:

Major vulnerabilities still exist in cargo and general aviation security. These, together with inadequate screening and access controls, continue to present aviation security challenges.

In addition, the 9/11 Commission told us that we needed to be imaginative, we needed to think outside the box. Unfortunately, we needed to think like those who wish us harm about what the new and emerging threats could be.

The Transportation Security Administration, known as TSA, issued security guidelines for general aviation airports in May of 2004, and they outlined some guidelines that general aviation airports should follow in order to secure the aircraft and the airfield. There are more than 19,000 landing facilities nationwide, including heliports, lakes, and dirt landing strips from which aircraft could be launched and more than 200,000 general aviation aircraft in our country.

Of course, it is impossible to avoid every threat that is posed to the public or that we can imagine, but we should be vigilant to make sure we have a partnership so that local communities, private individuals, and private businesses can all take necessary steps to be vigilant and protective.

My amendment requires the Secretary of Homeland Security, in coordination with the Secretary of Transportation, to conduct a threat assessment posed by security breaches at general aviation airports and to look at the potential impact such threats could pose to a number of potential targets if an aircraft were used as weapon or were loaded with explosives by terrorists.

The Department of Homeland Security would assess low-cost technologies to track general aviation aircraft, the feasibility of implementing additional security measures and background checks, an analysis of airports with unmanned air traffic control towers and what costs may be associated with implementing necessary additional security measures.

We have been very blessed that we have not suffered another terrorist attack. That is due to the hard work and vigilance of countless Americans who have responded not just heroically but in a very steadfast, daily way to prevent, detect, deter, and defend against potential threats.

In this building, we have experienced evacuations which, thankfully, were caused by either false alarms or as a result of errors by pilots. Recently, another general aviation aircraft breached the airspace over Camp David while the President of the United States was present.

It is important to evaluate the threats that could be posed. In its 2004 report, the TSA stated that as many vulnerabilities within other areas of aviation have been reduced, general aviation may be perceived as a more attractive target and consequently more vulnerable to misuses by terrorists.

I have flown in just about every little kind of plane you can imagine—medium-sized plane, big plane, crop dusters. I have had doors blow off, windows blow off, I have had emergency landings in pastures and cow fields and roads. I have been in so many airports at all hours of the day and night when no one was around except those getting into the airport or those just landing. I have a good idea how available these airfields are.

I appreciate the work the Aviation Security Advisory Committee Working Group did in advising the TSA. However, given the heightened vulnerability that we all are aware of, given some of the recent events—including the evacuations of our own Capitol involving general aviation aircraft—we need to roll up our sleeves and take another hard look at this. I hope we can do it hand in hand with the general aviation fixed-base operators, pilots, owners, airport managers, and others

who have been working hard to increase security measures at so many of these small airports.

I believe in general aviation. I take advantage of it practically every week. It is a significant and important contributor to our national economy. I want to be sure we do everything possible to make sure it is not in any way affected by any potential criminal or terrorist activity.

This amendment does not mandate any new costs for general aviation. It simply requires the study be conducted on vulnerabilities and a report made to Congress within 120 days. Most people who own these airports, most people who own these general aviation aircraft, want to be safe. They want to do what is necessary to protect their investment. But we need to have a good analysis of what the threats might be so we can be smart about how we address them. We certainly do not want to wait until an incident happens.

I appreciate Chairman GREGG and Senator BYRD who have agreed to accept this amendment.

I ask unanimous consent amendment 1106 be agreed to.

Mr. GREGG. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1106) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

#### AMENDMENT NO. 1104

Mr. ENSIGN. Mr. President, I ask that the pending amendment be set aside to call up amendment 1104.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1104.

Mr. ENSIGN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Transportation Security Administration to implement the use of multi compartment bins to screen passenger belongings at security checkpoints)

On page 69, line 12, after "presence:", insert the following: "Provided further, That of the amount made available under this heading, an amount shall be available for the Transportation Security Administration to develop a plan to research, test, and implement multi compartment bins to screen passenger belongings at security checkpoints."

#### AMENDMENT NO. 1104, AS MODIFIED

Mr. ENSIGN. I send a modification to that amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment will be so modified.

The amendment (No. 1104), as modified, is as follows:

On page 69, line 12, after "presence:", insert the following: "Provided further, That of

the amount made available under this heading, an amount shall be available for the Transportation Security Administration to develop a plan to research, test, and potentially implement multi compartment bins to screen passenger belongings at security checkpoints."

Mr. ENSIGN. I understand both sides have agreed to the amendment, as modified, and I ask unanimous consent this amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1104), as modified, was agreed to.

AMENDMENT NO. 1124, AS MODIFIED

Mr. ENSIGN. I call up amendment numbered 1124 for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending.

Does the Senator wish to call for regular order with respect to that amendment?

Mr. ENSIGN. Yes. I send a modification to the desk to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 1124), as modified, is as follows:

On page 77, line 20, insert "of which \$367,552,000 may be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and" after "local grants,".

Mr. ENSIGN. Mr. President; last year when the Senate was considering the national intelligence reform bill, we adopted several recommendations of the 9/11 Commission.

One of those recommendations was to hire an additional 2,000 new custom and border protection agents each year for the next 5 years.

This body agreed with the recommendation. We agreed that our national security depended on such an investment, and we enacted that recommendation into law.

We are now considering the Homeland Security appropriations bill. The bill that was reported out of committee includes funding for 1,000 new agents in the coming fiscal year. I understand there are problems with training 2,000 agents.

My amendment as modified would provide the Secretary of Homeland Security with the discretion to shift \$367 million to hire 2,000 new agents next year. This amendment is fully offset. I rise today to urge the Senate to adopt my amendment so that we can keep the commitment that we made to the American people last year. I thank JOHN MCCAIN for cosponsoring our amendment.

The threat of illegal border crossing by people who wish to kill us is very real.

The 9/11 Commission found that many of the 19 hijackers that attacked on 9/11 could have been placed on watch lists. But without adequate staff and coordinated efforts, the terrorists were allowed to enter the United States.

Once here they learned how to fly airplanes at American flight schools. They conducted surveillance to assess our weaknesses. And they attacked.

In order to prevent another terrorist attack on American soil, we must improve every aspect of our Nation's security. Our security is truly only as strong as our weakest link.

For too long, the lack of funding for border agents has been a weak link. By funding additional agents, we protect both our southern and our, often neglected, northern border. This will make it harder for terrorists to enter the United States and attack us.

There have been several news reports recently that I want to bring to my colleagues' attention.

A few months ago, intelligence officials confirmed that the terrorist Zarqawi plans to infiltrate America through our borders. He plans to attack targets such as movie theaters, restaurants, and schools. My amendment commits the resources to make sure that this does not happen.

Just last month, in Detroit, a Lebanese national named Mahmoud Youssef Kourani, who was in the United States illegally, pled guilty in Federal court to conspiring to raise money for a recognized terrorist group. He was in the United States raising money to fund terrorists. That is outrageous. But what is equally outrageous is how he came into the United States in the first place.

Kourani took advantage of our porous border. Kourani paid a Mexican consular official in Beirut \$3,000 for a visa to enter Mexico. Once in Mexico, he snuck across the U.S.-Mexican border in 2001 and settled in Michigan.

According to Federal prosecutors, Kourani and another member of his family are heavily involved with the same group that killed 214 marines in Beirut in 1983 and which is also responsible for bombing two U.S. embassies.

While in the United States, Kourani also helped harbor other illegal immigrants. Thankfully, he was prosecuted before he could inflict any direct harm on any American.

Given how easy it is for people like Kourani to enter the United States, I believe that my amendment is imperative to our national security.

My amendment does not require any additional spending. It gives the Secretary discretion which, if used, is completely offset. This amendment is paid for.

Homeland security spending must be based on priorities. The fact that terrorists would use our borders to gain access to the United States to attack is a real threat. So we must provide funds for customs and border protection.

Three and a half years ago it only took 19 people to change the course of this country. We must do everything that we can to prevent another terrorist attack on American soil.

The world has changed dramatically since 9/11 when the terrorists used our open and trusting society against us.

We cannot allow a repeat of that tragedy.

This amendment will help those who guard our frontiers by providing the necessary, and I stress necessary, tools to ensure the safety of our citizens.

In conclusion, I commend the chairman of the subcommittee, Chairman GREGG, for the job he has done prioritizing what we are doing in the area of Homeland Security. His is a very difficult job. We have limited resources. It is a question of where are we going to manage our risk with the limited resources we have in this global war on terrorism. Chairman GREGG has a huge, huge task ahead not only this year but in the years to come.

This year's bill is going a long way to reprioritizing what we need to do to defend ourselves against the terrorists. Although the bill goes in the right direction, our amendment takes the bill that much further toward protecting our national security.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I appreciate the commitment of Senator ENSIGN and Senator MCCAIN on the issue of border security. They have been aggressive in their commitment and have done a lot of constructive work. I will leave it to the Senate to decide how to handle this amendment.

I make these points for the purpose of fair disclosure. First off, the amendment takes about \$360 million out of the first responder program and moves it over to the Border Patrol for the purpose of hiring 1,000 new border agents. That means first responder money would go from \$1.9 billion to \$1.4 billion.

In addition, the money that will be moved would be money that would go out under threat. In other words, there are two pools of first responder money. There is the money that is distributed on the basis of threat, and there is the money that is distributed on the basis of formula.

Now, the language of the amendment says "may." I respect the decision of the authors of this amendment to use the term "may" because that will leave it up to the Homeland Security agency to make the decision as to where the money should go, whether it should stay in the area of first responders or whether it should be moved over to the Border Patrol. That is probably good policy in many ways.

The second thing I think that needs to be noted, however, is the reason we arrived at the number 1,000 that we funded—myself and Senator BYRD—in this bill for new Border Patrol is because when you combine that number with the supplemental, where there were 500 new Border Patrol agents added, you are up to 1,500 Border Patrol agents, and we know, through efforts of our staff and requests of the Department, that because of the facilities' restrictions—we moved most of the training from South Carolina over to



New Mexico—we can only train probably about 1,300 agents a year right now.

Now, this bill has money in it to get those facilities up to a position where they can do a much more robust effort in the area of training. In fact, my hope is next year we can train upwards of 2,500 when we expand these facilities. But right now they have, basically, limits on the number of people they can train. So it is not clear these additional Border Patrol agents would be able to be trained should we want to bring them on line. We do want to bring them on line; it is just a question when we can bring them on line. So that is a concern I think Members should know about.

In addition, the physical effort of hiring Border Patrol agents has become a problem for the Border Patrol. One of the reasons they were not able to hire up to the 2,000, which was originally requested a few years ago, was because they could not find qualified people to meet the enlistment rolls. We are not sure whether they are going to be able to find 1,500 new Border Patrol people. We hope they will. It will put a lot of pressure on them to try to find 2,500 new people, which is what this number will be if this amendment is adopted.

But, again, this is an issue of policy. I think the body has the right to make a decision on this issue. I do not intend to make any points of order against it. I will leave it to the majority of the body to decide where they want to have this money spent and how they want to set the policy on this issue when the amendment comes up for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

#### AMENDMENT NO. 1218

Mr. President, the amendment that the minority leader offered on my behalf would provide an additional \$1.33 billion above the underlying bill for security funding needed for our transit systems, intracity buses, intercity rail, and freight rail.

Our thoughts and prayers are with the victims of the London bombings. For all of us, the pictures were all too graphic reminders of how quickly disaster can strike and how deadly terrorist strikes can be.

The horrific attacks in London a few days ago were eerily similar to the attacks in Madrid, Spain, in March 2004: targeted, coordinated, and timed bombings.

Sadly, crowded subway systems and trains have become inviting targets for terrorists. We have witnessed the hysteria and the chaos that these events can trigger. Could it happen here? Of course. Are our systems more secure? I wonder.

Last week, when asked if additional funding was needed to secure mass transit, Homeland Security Secretary Chertoff responded by saying:

I wouldn't make a policy decision driven by a single event.

Well, with all due respect to the Secretary, the alarm bells have been ringing for years.

On July 8, the Washington Post printed a chart that provides a chronology of bombings with al-Qaida links. This chart shows that, starting in 1993 at the World Trade Center in New York City, there have been 16 bombings worldwide linked to al-Qaida.

Mr. President, I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### BOMBINGS WITH AL QAEDA LINKS

Date	City	Country	Facility	Attack type	Dead
2/26/93	New York City	U.S.	World Trade Center	Car bomb (some participants later became associated with al Qaeda)	6
6/25/96	Dhahran	Saudi Arabia	Khobar Towers housing	Truck bomb (some evidence of al Qaeda)	19
8/7/98	Nairobi	Kenya	U.S. Embassy	Truck bomb	247
8/7/98	Dar es Salaam	Tanzania	U.S. Embassy	Truck bomb	10
10/12/00	Aden	Yemen	Destroyer USS Cole	Bomb on small boat	17
9/11/01	New York, Washington, Pennsylvania	U.S.	World Trade Center, Pentagon, Pennsylvania	Planes flown into buildings, field	2,973
12/22/01	Paris-Miami	Airliner	Attempted plane bombing	Richard Reid caught with shoe bomb	0
4/11/02	Djerba Island	Tunisia	Synagogue	Truck bomb	21
6/14/02	Karachi	Pakistan	U.S. consulate	Suicide car bomb	14
10/6/02	Mina al-Dabah	Yemen	French supertanker Limburg	Bomb on boat	1
10/12/02	Bali	Indonesia	Two nightclubs	Suicide bombings	202
11/28/02	Mombasa	Kenya	Israeli-owned Paradise Hotel	Suicide car bomb	16
5/12/03	Riyadh	Saudi Arabia	Three compounds for Westerners	Car bombs	23
5/16/03	Casablanca	Morocco	Five locations	Suicide bombings	45
8/5/03	Jakarta	Indonesia	JW Marriott Hotel	Car bomb	12
3/11/04	Madrid	Spain	Four trains	Bombs in satchels	191

Source: Washington Post database.

Mr. BYRD. The alarms do not stop there, Mr. President. According to the RAND Corporation, between 1998 and 2003, there were 181 terrorist attacks on rail targets worldwide. The Congressional Research Service has reported that passenger rail systems in the United States carry about five times—five times—as many passengers each day as do the airlines. Yet the administration has continuously opposed funding to increase security on our trains, subways, and buses.

Public transportation is used nearly 32 million times a day—think of that: 32 million times a day—which is 16 times more than travel on domestic airlines. According to the Government Accountability Office, nearly 6,000 agencies provide transit services by bus, subway, ferry, and light rail to about 14 million Americans each weekday. Amtrak carried an all-time record ridership of 25 million passengers in fiscal year 2004. Are these lives not worth protecting? How about it?

What about the dangerous and hazardous materials that are transported by rail? We simply are not doing enough. Without proper security measures in place, these transports are vulnerable to attack or sabotage. Many of these shipments travel to or through major urban areas, such as Washington, DC, and, frankly, only minutes down the road from where we stand today.

The Homeland Security Council released a report in July 2004 indicating that a chlorine tanker explosion in an urban area could kill up to 17,500 people. According to a New York Times editorial on June 20, 2005:

One of the deadliest terrorist scenarios the Department of Homeland Security has come up with is an attack on a 90-ton rail tanker filled with chlorine. As many as 100,000 people could be killed or injured in less than 30 minutes.

Yet only 2 out of every 100 transportation security dollars in this bill will be spent on rail and transit. What does this mean? This means that 98 percent of transportation security funding is

going—for what?—going for aviation security.

Since 9/11, I have offered amendments on seven different occasions—seven different occasions—to add money for transit and rail security. However, every time the administration opposed my efforts. So I regret the Secretary's comments last week that policy should not be driven by a single event.

I was astonished to learn that the \$150 million that Congress approved for mass transit and rail security last October is still sitting—where?—sitting in the Treasury.

Finally, on Tuesday, the Department notified Congress how they intend to allocate the funds. But an announcement does not make Americans safer. It takes time for transit and rail systems to actually put these security improvements in place, so there is no excuse for these bureaucratic delays in Washington.

Within very limited allocations, Congress has taken the lead by providing \$265 million between fiscal years 2003

and 2005 for transit security. Unfortunately, the administration has let the money sit in Washington far too long. It was all of 8 months before all of the 2003 funding was awarded, and 6 months before the 2004 funding went out the door. And here we are again, 9 months after the fiscal year 2005 transit funding was enacted, and what happens? Well, it is *deja vu* all over again. It is still sitting—where?—in Washington, right here in Washington. The administration must overcome the hurdles that have caused those delays.

Clearly, the administration is not taking this threat seriously. It certainly would not appear to be. So we must press the administration to do more. The horrific events we witnessed just a few days ago ought to serve as a call to action by this Government to protect our citizens from future attack. For far too long, the administration has put its head in the sand where rail and mass transit security are concerned.

We should be taking steps right now to improve deterrence in our transit and rail systems by investing in surveillance cameras, investing in locks, in gates, in canine teams, in sensors, and other tools.

Last October, the Senate passed two bipartisan rail security authorization bills, S. 2273 and S. 2884, that authorized additional funding for securing mass transit and rail systems, but the bills did not make it to the White House.

The bill that is before the Senate reduces funding from \$150 million in fiscal year 2005 to \$100 million. The amendment would increase the \$100 million to \$1.43 billion. That is the amendment that I offer. Let me say it again. The amendment would increase the \$100 million to \$1.43 billion. The \$1.43 billion includes \$1.166 billion for transit security and \$265 million for rail security. So we are taking care of both transit security and rail security. That seems to meet both needs, at least part way.

Our security efforts cannot be delayed, Mr. President, and must not be underfunded. The lives of the American people depend on strengthened security. And whose life is it? It may be your own. It may be your relative's. It may be your friend's. The time for hand wringing is over. It is time to act.

So I urge all Senators to support the amendment.

I ask unanimous consent, Mr. President, that the following Senators have their names added as cosponsors to the amendment: Mr. INOUE, Mr. SARBANES, Mr. REED of Rhode Island, Mrs. CLINTON, Mr. SCHUMER, Mr. KENNEDY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. DAYTON, and Mr. CORZINE.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1120

Mr. BYRD. Mr. President, on behalf of Senator FEINGOLD, I call up amendment No. 1120. The amendment re-

quires the Department of Homeland Security to report to the Congress on the use of data-mining procedures.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. FEINGOLD, for himself, Mr. SUNUNU, Mr. LEAHY, and Mr. CORZINE, proposes an amendment numbered 1120.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require reports to Congress on Department of Homeland Security use of data-mining)

At the appropriate place, insert the following:

SEC. \_\_\_\_ (a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term “data-mining” means a query or search or other analysis of 1 or more electronic databases, whereas—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a predictive pattern indicating terrorist or criminal activity; and

(C) the search does not use a specific individual's personal identifiers to acquire information concerning that individual.

(2) DATABASE.—The term “database” does not include telephone directories, news reporting, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES BY THE DEPARTMENT OF HOMELAND SECURITY.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency in the Department of Homeland Security that is engaged in any activity to use or develop data-mining technology shall each submit a report to Congress on all such activities of the agency under the jurisdiction of that official. The report shall be made available to the public.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that is being or will be used.

(B) A thorough description of the goals and plans for the use or development of such technology and, where appropriate, the target dates for the deployment of the data-mining technology.

(C) An assessment of the efficacy or likely efficacy of the data-mining technology in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the technology.

(D) An assessment of the impact or likely impact of the implementation of the data-mining technology on the privacy and civil liberties of individuals.

(E) A list and analysis of the laws and regulations that govern the information being

or to be collected, reviewed, gathered, analyzed, or used with the data-mining technology.

(F) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(G) Any necessary classified information in an annex that shall be available to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be submitted not later than 90 days after the end of fiscal year 2006.

Mr. BYRD. The amendment is cosponsored by Senator CORZINE. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 1120) was agreed to.

Mr. BYRD. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1155, AS MODIFIED

Mr. BYRD. Mr. President, on behalf of Senator BOXER, I call up amendment No. 1155, with a modification which I send to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mrs. BOXER, proposes an amendment numbered 1155, as modified:

(Purpose: To provide oversight of homeland security spending)

#### SEC. . SPENDING OVERSIGHT.

“None of the funds made available in this Act shall be used for items identified in the Inspector General's Report of March 2005 ‘Irregularities in the Development of the Transportation Security Operations Center’ as wasteful.”

Mr. BYRD. Mr. President, does the modification need unanimous consent?

The PRESIDING OFFICER. Is there objection to the modification? Without action, the amendment is so modified.

Mr. BYRD. The amendment, as modified, prevents funds from being used for wasteful expenditures. I urge adoption of the amendment, as modified.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 1155), as modified, was agreed to.

Mr. BYRD. Mr. President, I move that the vote be reconsidered by which the amendment was agreed to.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1201

Mr. BYRD. Mr. President, I call up my amendment numbered 1201.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1201.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require State and local governments to expend or return grant funds)

On page 81, strike line 20 and insert the following:

award: *Provided further*, That any recipient of Federal funds granted through the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Urban Area Security Initiative Program, or any predecessor or successor to these programs, as appropriated in fiscal year 2004 and fiscal year 2005, shall expend funds pursuant to the relevant, approved State plan by September 30, 2007: *Provided further*, That any recipient of Federal funds granted through any program described in the preceding proviso, as appropriated in fiscal year 2006, shall expend funds pursuant to the relevant, approved State plan by September 30, 2008: *Provided further*, That any funds not expended by September 30, 2007 or September 30, 2008, respectively, as required by the preceding 2 provisos shall be returned to the Department of Homeland Security to be reallocated to State and local entities based on risk and in conformance with the assessments now being conducted by the States under Homeland Security Presidential Directive 8.

Mr. BYRD. Mr. President, this amendment would require that States and localities spend their first responder funds pursuant to approved State plans within 2 years of the end of the fiscal year that they received the funds. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 1201) was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are in the process of trying to reach an understanding on votes. It is not clear what that understanding will be, but we do intend to have votes this evening, maybe as many as five. In addition, I understand the Senator from Nevada wishes to be recognized on an amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 1219 TO AMENDMENT NO. 1124

Mr. ENSIGN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the Senator's amendment No. 1124.

Mr. ENSIGN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself and Mr. MCCAIN, proposes an amendment numbered 1219 to amendment No. 1124: (Purpose: To transfer appropriated funds from the Office of State and Local Government Coordination and Preparedness to the U.S. Customs and Border Protection for the purpose of hiring 1,000 additional border agents and related expenditures)

Strike all after the first word and insert the following:

On page 77, line 20, insert "of which \$367,551,000 may be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and" after "local grants,".

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I rise in support of the fiscal year 2006 Homeland Security appropriations bill. The first fundamental responsibility for our Federal Government is to protect the American people through a strong national defense and effective homeland security. Border security and immigration reform are essential elements of providing for a secure homeland. With that, I am here this afternoon to commend the chairman of the Appropriations Homeland Security Subcommittee, Senator GREGG, and the ranking member, Senator BYRD, for their aggressive and decisive steps forward that are being demonstrated in this legislation.

This bill continues to improve that which made our Nation and our people much safer than we were before and immediately after 9/11. I am proud to serve with the chairman and the ranking member and our colleagues on this subcommittee. We need to do more to improve our border security and immigration enforcement, however. It is important for Americans to understand that this Congress is making significant progress in this area.

Earlier this year, as a result of a Byrd-Craig amendment to the fiscal year 2005 emergency supplemental appropriations bill, we began the process of adding 500 new Border Patrol agents, 1,950 additional detention beds, and approximately 118 additional investigators, agents, and officers to the whole effort at Border Patrol. In fiscal year

2006, the bill that is before us continues to implement and build upon the progress that we have made in the Byrd-Craig amendment.

This bill, as reported by the committee, provides for 1,000 more Border Patrol agents. It increases the total number of beds at immigration detention centers by 2,240 to a total of 22,727.

It also adds 300 new immigration investigation positions and 200 new immigration enforcement agents and detention officers.

This bill, as reported, in combination with the supplemental bill we passed earlier, makes record increases to commit record resources to border security and immigration enforcement.

In total levels of key personnel alone, the Appropriations Committee has provided for 12,400-plus Border Patrol agents; 18,200-plus Customs and border protection officers; 6,000-plus criminal investigators for Customs and immigration work; 1,200-plus deportation officers; and 2,700-plus immigration enforcement agents and detention officers.

In other words, in these positions alone, this bill provides for literally an army of more than 40,000 agents and officers fighting on the front lines for border security and immigration enforcement.

The committee has made an earnest attempt to add resources and personnel as fast as the Department of Homeland Security can absorb them and use them effectively. The bill, as reported, makes available more than \$7.1 billion for Customs and border protection, and more than \$4.5 billion in immigration and Customs enforcement.

While those dollars and personnel numbers reflect something of our commitment to improve border security and immigration enforcement, it is important to emphasize the work being done and the progress being made for the American people.

More than 1 million individuals a year are being apprehended attempting to enter the country illegally, and formal removals have increased sixfold over the last decade. Worker identification checks have intensified. Development continues on US VISIT—the United States Visitor and Immigration Status Indicator Technology Program. Personnel are being trained. Technology is being modernized.

This bill calls on the administration, and provides resources to help, to close the gaps at our borders, to improve interagency coordination inside the Department of Homeland Security and with outside agencies, and to meet the challenges remaining from the historic, and massive, reorganization that created the Department.

As I have said, we do need to do more. The Federal Government has no laurels to rest on when it comes to border security or immigration. The problem of illegal immigration has grown

to crisis proportion, with an estimated 10 million undocumented persons now living here in this country.

During much of the 1990s, and at different times in preceding decades, the Federal Government simply paid lip-service to enforcing the law while mostly looking the other way. This was with the quiet complicity of much of the public, in large part, because whole sectors of the economy have become increasingly dependent on the labor of these people. This is an intolerable situation.

Our Nation's immigration system and laws are broken. Whether we are talking about more money, more law, or both, a policy that focuses exclusively on more enforcement is not enough, and it will not work. It is a part of the total picture.

The United States has 7,458 miles of land borders and 88,600 miles of tidal shoreline. We can secure those frontiers well, but not perfectly. As we have stepped up border enforcement, we have locked persons in this country at least as effectively as we have locked them out of the country. Even as we have increased border enforcement, net illegal immigration is estimated at 400,000 to 500,000 a year. Fellow Senators, that is a figure worth repeating. Net illegal immigration in our country still, today, at this moment, in this year, will be between 400,000 to 500,000. To search door to door, as some would advocate, to find 10 million persons and flush them out of their homes, schools, churches, workplaces, and other areas is simply something the American people, in the end, would never tolerate. The question of civil liberties would grow and that effort would fall apart. We fought a revolution once in this great country of ours against search of our homes and, once again, I think the American people would react to that as not only unconstitutional, but dramatically intrusive.

So what do we do? This bill is a major step in the right direction. First and foremost, we secure our borders. As I have said, that is step one. Step two, to me, is we change the law and we change the character of the law to deal with the problem that clearly is at hand; provide incentives for those inside our borders to come forward and identify themselves; laws that ensure there is a supply of legal guest workers to take jobs Americans don't want or won't take. For example, when American agriculture briefly had a widely used legal guest worker program in the 1950s, illegal immigration plummeted by more than 90 percent. That program was called the Bracero Program. It worked well, but it had lots of criticism for the way the foreign nationals were treated inside this country. As a result, it fell apart. We were then given what we have today—a very cumbersome law that no longer works.

Last year, that law identified about 42,000 to 45,000 legal workers for American agriculture. Yet, we know there were well over a million working in

this country for American agriculture that were probably illegal. That, too, is an intolerable situation. It is why several years ago I began to look at ways to solve this problem—at least for agriculture—because American agriculture is nervous, and they ought to be; they know that even though those workers who come to them have what appear to be legal documents, the reality is that they are, by 70 percent of their workforce, working illegal foreign nationals. If it is not corrected, it is an intolerable situation for American agriculture to be in.

That story can be played out in a variety of other industries. But as I began to focus on this a good number of years ago, I recognized there was a significant problem that had to be dealt with. It is not a popular thing to do, but immigration and immigration reform is never popular. Those of us who are the children of immigrants sometimes hold the attitude, close the border and let no one in. Yet, today, in the American workforce we know that at a growing high record of employment we still have well over 10 million foreign nationals, undocumented, working in our economy in jobs that Americans oftentimes choose not to work in.

That is why I created the bill AgJOBS, now supported by well over 60 Senators. We got a vote this year of 53 to 45 on a procedural motion to allow that Agricultural Job Opportunity and Benefit Security Act to come to the floor and ultimately work through the process and become law. Other colleagues of mine are working on types of reform.

So what we are doing today with the Homeland Security Appropriations bill is making a quantum leap in the right direction. No immigration policy, no matter how forward-looking, how flexible, and how reasonable it might be to identify those who are in the country, to allow the ebb and flow necessary to meet both the economic needs and humanitarian needs that we are all for—you cannot do it without controlling your borders, without controlling the flow that comes across them. That is what this bill makes a major step in doing.

I am pleased to be a member of the subcommittee and to join with Chairman GREGG and the ranking member, Senator BYRD, whom I have worked with on this issue before. I believe this bill deserves the support of the Senate. If you are for immigration reform, if you believe in controlling our borders, if you recognize this is an issue that has gone well out of control, then you would want to vote for this legislation. Is it a tremendous investment? You bet it is. But it is an investment long coming, because it is the investment we have denied and ignored as necessary to make for well over two decades. As a result of that, we have the consequences of the situation we deal with today.

Now is the time to correct it. Now is the time to reshape immigration policy

in our country, and to do so recognizing that it is a two-front issue—both to have the right law in place, and to secure our borders so that those who come across are identified and move across legally and appropriately, consistent with the laws of our land.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators BOXER and KERRY have their names added to the Byrd transit amendment No. 1218.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1166

Mr. DURBIN. Mr. President, I call up amendment No. 1166.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1166.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To designate a port of entry)

On page 70, line 20, strike "purposes." and insert the following: "purposes: *Provided further*, That MidAmerica St. Louis Airport in Mascoutah, Illinois, shall be designated as a port of entry."

Mr. DURBIN. Mr. President, this is a very brief and simple amendment. It designates MidAmerica St. Louis Airport in Mascoutah, IL, as a port of entry.

MidAmerica Airport is the civilian side of Scott Air Force Base, one of the region's largest employers. MidAmerica and Scott Air Force Base have a successful joint-use plan.

MidAmerica is classified as a foreign trade zone and is a finalist to be classified as an interior transshipment point for international air cargo. The MidAmerica Airport does not currently have international traffic, although a passenger terminal was built to host pre-9/11 Customs activities. International air cargo transport is non-existent in the region, and it would give MidAmerica a means to enhance the region's economy. This would be beneficial to homeland security and would enhance economic development in the metro East St. Louis region.

Mr. President, I ask that this amendment be set aside.

Mr. GREGG. Mr. President, I have no problem agreeing to this amendment if

the Senator wants to ask unanimous consent for its approval.

Mr. DURBIN. Mr. President, I ask unanimous consent that amendment No. 1166 be considered and agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment? Without objection, the amendment is agreed to.

The amendment (No. 1166) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1205

Mr. SHELBY. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 1205.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself, Mr. SARBANES, Mr. REED, Mrs. DOLE, Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. BYRD, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. KERRY, proposes an amendment numbered 1205.

The amendment is as follows:

(Purpose: To appropriate funds for transit security grants for fiscal year 2006 equal to the amount authorized in the Public Transportation Terrorism Prevention Act of 2004)

On page 77, line 18, strike “\$2,694,300,000” and insert “\$3,760,300,000”.

On page 78, strike line 25 and all that follows through “(E)” on page 79, line 5, and insert the following: “security grants; and “(D)”.

On page 79, between 22 and 23, insert the following:

(7) \$1,166,000,000 for transit security grants, of which—

(A) \$790,000,000 shall be for grants for public transportation agencies for allowable capital security improvements; and

(B) \$333,000,000 shall be for grants for public transportation agencies for allowable operational security improvements; and

(C) \$43,000,000 shall be for grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems:

#### AMENDMENT NO. 1205, AS MODIFIED

Mr. SHELBY. Mr. President, I further ask to modify the amendment with a modification that I sent to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1205), as modified, is as follows:

On page 77, line 15, strike all through page 79, line 6 and insert the following:

“For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, \$3,860,300,000, which shall be allocated as follows:

(1) \$1,518,000,000 for State and local grants, of which \$425,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for formula-based grants: Provided, That the balance shall be allocated by the Secretary of Homeland Security to States, urban areas, or regions based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to Homeland Security Presidential Directive 8 (HSPD-8).

(2) \$400,000,000 for law enforcement terrorism prevention grants, of which \$155,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for law enforcement terrorism prevention grants: Provided, That the balance shall be allocated by the Secretary to States based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to HSPD-8.

(3) \$1,531,000,000 for discretionary transportation and infrastructure grants, as determined by the Secretary, of which—

(A) \$200,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(B) \$5,000,000 shall be for trucking industry security grants;

(C) \$10,000,000 shall be for intercity bus security grants;

(D) \$100,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code) and freight rail security grants;

(E) 1,166,000,000 shall be for transit security grants, of which—

(i) \$790,000,000 shall be for grants for public transportation agencies for allowable capital security improvements; and

(ii) \$333,000,000 shall be for grants for public transportation agencies for allowable operational security improvements; and

(iii) \$43,000,000 shall be for grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems; and

(F) \$50,000,000 shall be for buffer zone protection plan grants.”.

Mr. SHELBY. Mr. President, the funding level in this amendment is based on many things, and I will tell you about it. In fiscal year 2006, we were planning to have the Public Transportation Terrorism Prevention Act that would have provided a total of \$1.166 billion for public transportation security grants based on risk. It provides for grants for capital infrastructure improvements, for public transportation systems, as well as operational costs for drills and training and research funding. Everything—cameras, dogs, and you might go further with it.

We have taken necessary and prudent steps toward protecting our air travel from terrorism—we hope. We made strides toward hardening our aviation

systems and making them less vulnerable to attack. Now I believe is the time to do the same for public transportation.

In 2004, the last year that data was available, over 9.6 billion passenger trips were taken on buses, trains, and other forms of public transportation. The American Public Transportation Association estimates that over 14 million Americans ride on public transportation each weekday. The U.S. Department of Transportation estimates that another 25 million use public transportation less frequently but on a regular basis.

Securing public transportation presents many challenges. We know that. The public transportation system includes over 100,000 miles of rail, almost 1,000 train and subway stations, and 60,000 buses. Meeting this challenge will require devoted resources and steadfast commitment to the task.

Today this amendment I am offering on behalf of myself, Senator SARBANES, and others is an amendment to the Department of Homeland Security appropriations bill. As the Banking Committee has jurisdiction over transit security issues, a lot of the colleagues on the Banking Committee on both sides of the aisle are joining me in this amendment.

The London attacks well illustrate the threats we face in this country, and we know all too well that England is not alone. Terrorists have targeted public transportation systems the world over, and we know they would delight in a successful attack here.

To this date, most terrorist attacks around the world have occurred on public transportation. Examples are, as you know, Mr. President, Spain, Israel, Japan, and other countries, and this should cause us to consider how we will aim to prevent such terrible attacks on our soil.

Over a year ago, Senator SARBANES and I reported out of the Banking Committee the Public Transportation Terrorism Prevention Act. It had numerous cosponsors and passed the Senate with a unanimous vote. The bill was crafted in a thoughtful and considered manner after a series of hearings held in the committee.

In those sessions, we spoke to terrorism experts and industry officials to ascertain the best way to protect public transportation systems in the country. The product was a bill that had the support of industry and terrorism experts alike. This amendment we are offering today comes out of that bill.

I believe we must provide resources toward mitigating these security threats, and we must do so as soon as possible. We cannot wait.

I also appreciate the challenge that Chairman GREGG of the committee faces. I serve on the Appropriations Committee with him, and I, too, am chairman of a subcommittee on appropriations. As he attempts to address the multitude of security challenges in

this appropriations bill, the allocation of funding is daunting. Attempting to find the balance between ports, rail, public transportation, and other targets is a difficult task.

We could have infinite resources to spend and still not be totally protected. We must realize this. We must concede that in the debate. But I think we have to do more to protect our public transportation system. It is in that spirit, I am offering this amendment tonight.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1220 TO AMENDMENT NO. 1205, AS MODIFIED

Mr. GREGG. Mr. President, I send a second-degree amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1220 to amendment No. 1205, as modified.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, \$2,694,299,000, which shall be allocated as follows:

(1) \$1,417,999,000 for State and local grants, of which \$425,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for formula-based grants: Provided, That the balance shall be allocated by the Secretary of Homeland Security to States, urban areas, or regions based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to Homeland Security Presidential Directive 8 (HSPD-8).

(2) \$400,000,000 for law enforcement terrorism prevention grants, of which \$155,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for law enforcement terrorism prevention grants: Provided, That the balance shall be allocated by the Secretary to States based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to HSPD-8.

(3) \$465,000,000 for discretionary transportation and infrastructure grants, as determined by the Secretary, which shall be based on risks, threats, and vulnerabilities, of which—

(A) \$195,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(B) \$5,000,000 shall be for trucking industry security grants;

(C) \$15,000,000 shall be for intercity bus security grants;

(D) \$200,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(E) \$50,000,000 shall be for buffer zone protection plan grants.

Mr. GREGG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 1205, AS MODIFIED

Mr. SARBANES. Mr. President, I rise in support of the amendment offered by the distinguished chairman of the Senate Banking, Housing, and Urban Affairs Committee. The need to improve security throughout our Nation's public transportation system has been apparent for quite some time. In fact, last year in the committee, I worked closely with Chairman SHELBY and with Senator REED of Rhode Island who have been leaders on this issue both within the committee and throughout the Senate, on the Public Transportation Terrorism Prevention Act of 2004.

That legislation came out of the committee unanimously and was approved in the Senate last October 1 by unanimous consent. So every Member of this body, in effect, validated that legislation. That bill authorized \$3.5 billion over 3 years in security for our Nation's mass transportation systems. Of that amount, \$1.16 billion was scheduled for fiscal year 2006.

This funding level was authorized to begin to address the critical security needs that exist throughout the thousands of public transportation systems in our country. The amendment offered by the chairman of the committee, which I have joined in cosponsoring, along with my able colleague from Rhode Island, Senator REED, and others, seeks to provide the appropriations level to sustain the authorized level, which this body has heretofore approved.

In the wake of the tragic attack in London last Thursday, which has claimed over 50 lives and left hundreds more injured, we clearly need to more fully fund transit security, and going to the previously Senate-authorized level seems to make imminent good sense. The Senate anticipated this problem in the authorization, and the committee brought out well-considered legislation which this body passed unanimously. We have not provided the wherewithal to support the authorization, and this amendment seeks to do exactly that.

The threat to transit is not new. We have had terrorist attacks against transit systems in Moscow, South Korea, and London. In fact, in 2002, the GAO found that one-third of all terrorist attacks worldwide were against transit systems. Despite this significant threat, security funding has been grossly inadequate.

Our Nation's transit systems have been unable to implement necessary security improvements, including those that have been identified by the Department of Homeland Security. In an editorial last Friday, the Baltimore Sun stated that, "Since September 11, 2001, the Federal Government has spent \$18 billion on aviation security. Transit systems, which carry 16 times more

passengers daily, have received about \$250 million. That is a ridiculous imbalance."

They go on to state:

Transit officials estimate it would take \$6 billion to make buses and rail systems safe. And Congress has in the past considered authorizing \$3.5 billion over three years for the same purpose.

That is a direct reference to the Public Transportation Terrorism Prevention Act of 2004, which, as has been noted, passed the Senate unanimously.

These moneys will be used for such necessities as: security cameras, radios, front-line employee training, and extra security personnel. They are not extravagant requests.

Let me give one example of a critical need right here with respect to Washington's Metro. Their greatest security need is a backup control operations center. This need was identified by the Federal Transit Administration in its initial security assessment and then identified again by the Department of Homeland Security in its subsequent security assessment. This critical need remains unaddressed because it has been unfunded. This amendment provides the funding to match what was set out in the authorization.

We know that transit systems are potential targets for terrorist attacks. We know the vital role these systems play in our Nation's economic and security infrastructure. We can wait no longer to address these critical security needs of the transit systems throughout the Nation. This amendment begins the important process of providing these critically needed funds.

Again, I thank the able chairman of the committee for his excellent leadership on the transit security issue and Senator REED for his strong and continued commitment on this issue and his perseverance over a sustained period of time. I thank all of our colleagues who have joined as cosponsors of this amendment. I urge my colleagues to support the amendment.

I ask unanimous consent that the editorial from the Baltimore Sun of July 8 referenced in my statement be printed in full at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SECURITY DERAILED

Yesterday's attack on London's transit system was frighteningly familiar. Just 16 months ago, terrorists in Madrid killed nearly 200 people and wounded more than 1,500 by setting off bombs in commuter trains. Both demonstrated the potential vulnerability of buses and rail systems. Yet, until yesterday, many in Washington seemed unconcerned that something similar could happen in the United States.

Last month, the Senate Appropriations Committee voted to reduce the Department of Homeland Security's budget for transit and rail security from \$150 million (the amount spent annually now) to \$100 million in the upcoming fiscal year. Certainly, no one knew terrorists would target London, but the 2004 bombings in Spain should have been fresh in senators' minds. What does it take for Congress to grasp this issue?



Since Sept. 11, 2001, the federal government has spent \$18 billion on aviation security. Transit systems—which carry 16 times more passengers daily—have received about \$250 million. That's a ridiculous imbalance. Transit officials estimate it would take \$6 billion to make buses and rail systems safe. And Congress has in the past considered authorizing \$3.5 billion over three years for the same purpose.

How would those in charge of the nation's public transit systems spend the extra money? Chiefly for necessities like security cameras, radios, training and extra security personnel. Those aren't extravagant requests. Local governments have spent \$2 billion to keep buses and trains safe over the past four years, according to the American Public Transit Association.

The Bush administration originally asked for significantly more than \$150 million to create a Targeted Infrastructure Protection Program that would not only increase transit security but also assist vulnerable shipping ports and energy facilities, too. And though transit and rail systems might have been shortchanged by that arrangement, it is not unreasonable to let DHS officials set their own investment priorities—if an adequate budget is made available to them.

Transit advocates are hopeful that the \$50 million cut can be restored. The attacks in London suggest much more is needed. Advocates want \$2 billion for transit and rail security in the fiscal 2006 budget (not counting the amount needed to protect Amtrak). Suddenly, that doesn't seem quite so unreasonable an expenditure.

Still, the failure to address transit security in the wake of last year's bombings in Madrid underscores Capitol Hill's inability to set appropriate spending priorities in matters of domestic security. As the 9/11 commission pointed out, Congress has treated portions of the DHS budget like so much bacon, apportioning more per capita to Wyoming than to New York. Between the costly war in Iraq and record budget deficits, the nation can ill afford to be so foolish with its security resources.

Mr. SARBANES. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise to commend Chairman SHELBY for his leadership on this issue and Senator SARBANES for his leadership. I am proud to be a cosponsor of this amendment along with Chairman SHELBY and Senator SARBANES. They have said it very well. We understand that transit systems are threatened by terrorists. That understanding was developed after 9/11, but certainly it was sharpened last week with the attack in London that left 52 dead and over 700 injured.

We recognize that we have to protect these vulnerable transit systems, and the purpose of this amendment is to provide the resources to do that. There are 6,000 transit systems in the United States, so this money, although it seems significant, will barely keep up with the demands for security improvements to transit systems across the United States.

Each day, 14 million riders use transit to get to work, to get to appointments, to get to hospitals, to do what they must do. Let me disabuse the notion that this is just the province of the very biggest metropolises like New

York City. In Dallas, for example, on a yearly basis, 55 million trips a year on transit; Houston, 96 million trips a year; Atlanta, 137 million trips per year; Portland, 95 million; Charlotte, NC, 16 million trips per year; Philadelphia, PA, 297 million trips per year; and Minneapolis, 56.9 million trips per year.

Millions of Americans each day get on a subway or a bus and use the transit system. They are today not as well protected as they should be. The point of this amendment is to begin to get the resources together to start those sensible investments in capital equipment, in operational techniques and training and in consequence management that are so important for transit security.

As Senator SARBANES pointed out, the GAO has found that one-third of the terrorist attacks in the last several years have been directed against transit systems. We know it is a target.

After 9/11, as I was acting as chairman of the Subcommittee on Housing and Transportation, I held a hearing—in fact several hearings—about the need for improvement of transit security. Today, that evidence is even more compelling based upon what has happened in London, Moscow, and Spain. All of these things should compel us to support this amendment enthusiastically.

One final point: Not only is transit important, not only is it a target for terrorists, but in terror attacks transit is an important aspect in consequence management. People were evacuated from the Pentagon because of the subway systems and the Metro systems in Washington. Transit trains moved underneath the World Trade Center. In fact, cool action by some of the transit police and transit dispatchers was able to minimize casualties. That will not happen if they do not have the communication equipment, the training, and the ability to respond and react to a possible terrorist attack.

So not only is transit a likely target, but it is an essential means of managing the consequences of an attack in any urban area anywhere in the United States.

So I again urge my colleagues to join Senator SHELBY, Senator SARBANES, and our other colleagues who support this amendment. It is important. It is more than timely; it is, frankly, after last week, overdue.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, it appears we will be able to begin voting here around 6:30, just for Members' edification. The first vote will be on the point of order relative to the amendment of Senator DODD, followed hopefully with a second amendment dealing with one of the amendments of Senator AKAKA.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

AMENDMENT NO. 1202, AS MODIFIED

Mr. DODD. Mr. President, I have cleared this with the distinguished manager of the bill. I send a modification of the Dodd amendment, amendment No. 1202, to the desk.

The PRESIDING OFFICER. Is there objection to the modification? Hearing none, it is so ordered.

The amendment is as follows:

On page 77, line 18, strike \$2,694,000,000 and insert \$13,863,377,000.

On page 77, line 20, strike \$1,518,000,000 and insert \$7,810,788,066.

On page 77, line 21, strike \$425,000,000 and insert \$2,058,178,673.

On page 78, line 13, strike \$365,000,000 and insert \$1,878,088,040.

On page 78, line 16, strike \$200,000,000 and insert \$1,029,089,337.

On page 78, line 22, strike \$5,000,000 and insert \$25,727,233.

On page 78, line 24, strike \$10,000,000 and insert \$51,454,467.

On page 79, line 1, strike \$100,000,000 and insert \$514,544,668.

On page 79, line 5, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 7, strike \$50,000,000 and insert \$257,272,334.

On page 79, line 9, strike \$40,000,000 and insert \$205,817,867.

On page 79, line 21, strike \$321,300,000 and insert \$1,653,232,019.

On page 81, line 24, strike \$615,000,000 and insert \$3,164,802,000.

On page 81, line 24, strike \$550,000,000 and insert \$2,830,311,000.

On page 81, line 26, strike \$65,000,000 and insert \$334,491,000.

On page 82, line 12, strike \$180,000,000 and insert \$926,284,000.

On page 83, line 12, strike \$203,499,000 and insert \$1,047,210,000.

On Page 89, line 3, strike \$194,000,000 and insert \$998,327,800.

Mr. DODD. Let me begin once again by expressing my appreciation to the chairman and the manager of this bill, Senator GREGG, and my colleague from West Virginia, Senator BYRD. They have done a good job with this bill. This bill deals with several complicated issues. The events during the past few days in London have highlighted the importance of these issues concerning our homeland security. I want to express my appreciation to Senator GREGG and Senator BYRD for operating within the constraints of the budget caps.

I realize by offering an amendment so large—50 percent of the entire amount in this bill—I am offering an extraordinary amendment. I tried to make it clear today that these are extraordinary times with extraordinary events. Since 1983, when the bombing of the Marine barracks took place in Beirut where we lost 242 Marines, 221 major terrorist attacks have occurred around the world. Fifty-eight of those attacks, almost 25 percent, were carried out in transit systems, with the use of trucks or cars or in seaports.

We know today in our own country that we are glaringly lax in providing the security we need within our transit systems, harbors, and ports.

The amendment I am offering is not one that I have crafted on my own. It was crafted largely from the recommendations Senator Warren Rudman, our former colleague, had suggested in a report sponsored by the Council on Foreign Relations that included many distinguished Americans who have worked in areas of national security as well as public health, intelligence, and bioterrorism. They suggested strongly in their report that we spend some \$20 billion a year in order to fully invest in what we need to make our country more secure.

Let me quote, if I can, once again, because I think his comments are worth repeating, the language of Senator Rudman in that report. Senator Rudman said at that time:

The terrible events of September 11 have shown the American people how vulnerable they are because attacks on that scale had never been carried out on U.S. soil. The United States and the American people were caught underprotected and unaware of the magnitude of the threat facing them.

He goes on to say:

In the wake of September 11, ignorance of the nature of the threat or of what the United States must do to prepare for future attacks can no longer explain America's continuing failure to allocate sufficient resources in preparing local emergency responders. It would be a terrible tragedy indeed if it took another catastrophic attack to drive that point home.

Let me also, if I can, read once again the language of Les Gelb, in preparing the foreword of that report. Les Gelb wrote, on the occasion of this report being filed:

As I sit to write this foreword, it is likely that a terrorist group somewhere in the world is developing plans to attack the United States and/or American interests abroad using chemical, biological, radiological, nuclear or catastrophic conventional means. At the same time, diplomats, legislators, military and intelligence officers, police, fire, and emergency medical personnel and others in the United States and across the globe are working feverishly to prevent and prepare for such attacks. These two groups of people are ultimately in a race with one another. This is a race we cannot afford to lose.

I think those words ought to be taken to heart. Since that report was filed, of course, we have seen the attacks in Madrid on their transit system and the people there who lost their lives in March of 2004 and we have seen the attacks in London, the suicide bombings that we now know occurred there—the first time suicide bombers appeared in the West. What kind of attack will it take for us to realize we can no longer wait to do what needs to be done to prepare our transit systems, our ports, our harbors—what more needs to be done to make America more secure?

Is my amendment a large amendment? It is. Is it extraordinary in its size? It is. But I strongly suggest to my

colleagues the events we are facing as a people are no less extraordinary and demand, I think, extraordinary action.

While there will be a move here, obviously, to raise the point of order on the budget against this amendment because of its size—and I have asked to waive that point of order—at some point we are going to be faced again with these tragedies. I only hope we have the resources at hand to minimize them. How many events will it take? What catastrophic occurrence is going to have to occur before we realize we need to make these investments?

I know all the bureaucratic arguments that are being made here, but I don't think they apply. I think when we are faced, as we have been historically, with major events, major problems, this body, this Congress, the American people have responded accordingly. I think the American people expect nothing less of us at this hour. So I urge my colleagues to support this motion to waive and to support this amendment so we can do what needs to be done to make our country more secure.

Again, I appreciate immensely the efforts of the Senator from New Hampshire. I understand his points. They are points that are well taken. But I also believe the point I am making here is one deserving of attention.

Mr. President, I list here, for those who may be interested, the 221 significant terrorist incidents since 1983. I have categorized each of them that occurred and the numbers of lives lost. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIGNIFICANT TERRORIST INCIDENTS, 1981-2003:  
A BRIEF CHRONOLOGY

Bombing of U.S. Embassy in Beirut, April 18, 1983: Sixty-three people, including the CIA's Middle East director, were killed and 120 were injured in a 400-pound suicide truck-bomb attack on the U.S. Embassy in Beirut, Lebanon. The Islamic Jihad claimed responsibility.

Naval Officer Assassinated in El Salvador, May 25, 1983: A U.S. Navy officer was assassinated by the Farabundo Marti National Liberation Front.

North Korean Hit Squad, October 9, 1983: North Korean agents blew up a delegation from South Korea in Rangoon, Burma, killing 21 persons and injuring 48.

Bombing of Marine Barracks, Beirut, October 23, 1983: Simultaneous suicide truck-bomb attacks were made on American and French compounds in Beirut, Lebanon. A 12,000-pound bomb destroyed the U.S. compound, killing 242 Americans, while 58 French troops were killed when a 400-pound device destroyed a French base. Islamic Jihad claimed responsibility.

Naval Officer Assassinated in Greece, November 15, 1983: A U.S. Navy officer was shot by the November 17 terrorist group in Athens, Greece, while his car was stopped at a traffic light.

1984

Kidnapping of Embassy Official, March 16, 1984: The Islamic Jihad kidnapped and later murdered Political Officer William Buckley in Beirut, Lebanon. Other U.S. citizens not

connected to the U.S. government were seized over a succeeding two-year period.

Restaurant Bombing in Spain, April 12, 1984: Eighteen U.S. servicemen were killed and 83 people were injured in a bomb attack on a restaurant near a U.S. Air Force Base in Torrejon, Spain.

Temple Seizure, June 5, 1984: Sikh terrorists seized the Golden Temple in Amritsar, India. One hundred people died when Indian security forces retook the Sikh holy shrine.

Assassination of Indian Prime Minister, October 31, 1984: Premier Indira Gandhi was shot to death by members of her security force.

1985

Kidnapping of U.S. Officials in Mexico, February 7, 1985: Under the orders of narcotrafficker Rafael Caro Quintero, Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot were kidnapped, tortured and executed.

TWA Hijacking, June 14, 1985: A Trans-World Airlines flight was hijacked en route to Rome from Athens by two Lebanese Hizballah terrorists and forced to fly to Beirut. The eight crew members and 145 passengers were held for seventeen days, during which one American hostage, a U.S. Navy sailor, was murdered. After being flown twice to Algiers, the aircraft was returned to Beirut after Israel released 435 Lebanese and Palestinian prisoners.

Attack on a Restaurant in El Salvador, June 19, 1985: Members of the FMLN (Farabundo Marti National Liberation Front) fired on a restaurant in the Zona Rosa district of San Salvador, killing four Marine Security Guards assigned to the U.S. Embassy and nine Salvadoran civilians.

Air India Bombing, June 23, 1985: A bomb destroyed an Air India Boeing 747 over the Atlantic, killing all 329 people aboard. Both Sikh and Kashmiri terrorists were blamed for the attack. Two cargo handlers were killed at Tokyo airport, Japan, when another Sikh bomb exploded in an Air Canada aircraft en route to India.

Soviet Diplomats Kidnapped, September 30, 1985: In Beirut, Lebanon, Sunni terrorists kidnapped four Soviet diplomats. One was killed but three were later released.

Achille Lauro Hijacking, October 7, 1985: Four Palestinian Liberation Front terrorists seized the Italian cruise liner in the eastern Mediterranean Sea, taking more than 700 hostages. One U.S. passenger was murdered before the Egyptian government offered the terrorists safe haven in return for the hostages' freedom.

Egyptian Airliner Hijacking, November 23, 1985: An EgyptAir airplane bound from Athens to Malta and carrying several U.S. citizens was hijacked by the Abu Nidal Group.

Airport Attacks in Rome and Vienna, December 27, 1985: Four gunmen belonging to the Abu Nidal Organization attacked the El Al and Trans World Airlines ticket counters at Rome's Leonardo da Vinci Airport with grenades and automatic rifles. Thirteen persons were killed and 75 were wounded before Italian police and Israeli security guards killed three of the gunmen and captured the fourth. Three more Abu Nidal gunmen attacked the El Al ticket counter at Vienna's Schwechat Airport, killing three persons and wounding 30. Austrian police killed one of the gunmen and captured the others.

1986

Aircraft Bombing in Greece, March 30, 1986: A Palestinian splinter group detonated a bomb as TWA Flight 840 approached Athens airport, killing four U.S. citizens.

Berlin Discotheque Bombing, April 5, 1986: Two U.S. soldiers were killed and 79 American servicemen were injured in a Libyan bomb attack on a nightclub in West Berlin,

West Germany. In retaliation U.S. military jets bombed targets in and around Tripoli and Benghazi.

Kimpo Airport Bombing, September 14, 1986: North Korean agents detonated an explosive device at Seoul's Kimpo airport, killing 5 persons and injuring 29 others.

1987

Bus Attack, April 24, 1987: Sixteen U.S. servicemen riding in a Greek Air Force bus near Athens were injured in an apparent bombing attack, carried out by the revolutionary organization known as November 17.

Downing of Airliner, November 29, 1987: North Korean agents planted a bomb aboard Korean Air Lines Flight 858, which subsequently crashed into the Indian Ocean.

Servicemen's Bar Attack, December 26, 1987: Catalan separatists bombed a Barcelona bar frequented by U.S. servicemen, resulting in the death of one U.S. citizen.

1988

Kidnapping of William Higgins, February 17, 1988: U.S. Marine Corps Lieutenant Colonel W. Higgins was kidnapped and murdered by the Iranian-backed Hizballah group while serving with the United Nations Truce Supervisory Organization (UNTSO) in southern Lebanon.

Naples USO Attack, April 14, 1988: The Organization of Jihad Brigades exploded a car-bomb outside a USO Club in Naples, Italy, killing one U.S. sailor.

Attack on U.S. Diplomat in Greece, June 28, 1988: The Defense Attaché of the U.S. Embassy in Greece was killed when a car-bomb was detonated outside his home in Athens.

Pan Am 103 Bombing, December 21, 1988: Pan American Airlines Flight 103 was blown up over Lockerbie, Scotland, by a bomb believed to have been placed on the aircraft by Libyan terrorists in Frankfurt, West Germany. All 259 people on board were killed.

1989

Assassination of U.S. Army Officer, April 21, 1989: The New People's Army (NPA) assassinated Colonel James Rowe in Manila. The NPA also assassinated two U.S. government defense contractors in September.

Bombing of UTA Flight 772, September 19, 1989: A bomb explosion destroyed UTA Flight 772 over the Sahara Desert in southern Niger during a flight from Brazzaville to Paris. All 170 persons aboard were killed. Six Libyans were later found guilty in absentia and sentenced to life imprisonment.

Assassination of German Bank Chairman, November 30, 1989: The Red Army Faction assassinated Deutsche Bank Chairman Alfred Herrhausen in Frankfurt.

1990

U.S. Embassy Bombed in Peru, January 15, 1990: The Tupac Amaru Revolutionary Movement bombed the U.S. Embassy in Lima, Peru.

U.S. Soldiers Assassinated in the Philippines, May 13, 1990: The New People's Army (NPA) killed two U.S. Air Force personnel near Clark Air Force Base in the Philippines.

1991

Attempted Iraqi Attacks on U.S. Posts, January 18-19, 1991: Iraqi agents planted bombs at the U.S. Ambassador to Indonesia's home residence and at the USIS library in Manila.

Sniper Attack on the U.S. Embassy in Bonn, February 13, 1991: Three Red Army Faction members fired automatic rifles from across the Rhine River at the U.S. Embassy Chancery. No one was hurt.

Assassination of former Indian Prime Minister, May 21, 1991: A female member of the LTTE (Liberation Tigers of Tamil Eelam) killed herself, Prime Minister Rajiv Gandhi, and 16 others by detonating an explosive vest

after presenting a garland of flowers to the former Prime Minister during an election rally in the Indian state of Tamil Nadu.

1992

Kidnapping of U.S. Businessmen in the Philippines, January 17-21, 1992: A senior official of the corporation Philippine Geothermal was kidnapped in Manila by the Red Scorpion Group, and two U.S. businessmen were seized independently by the National Liberation Army and by Revolutionary Armed Forces of Colombia (FARC).

Bombing of the Israeli Embassy in Argentina, March 17, 1992: Hizballah claimed responsibility for a blast that leveled the Israeli Embassy in Buenos Aires, Argentina, causing the deaths of 29 and wounding 242.

1993

Kidnappings of U.S. Citizens in Colombia, January 31, 1993: Revolutionary Armed Forces of Colombia (FARC) terrorists kidnapped three U.S. missionaries.

World Trade Center Bombing, February 26, 1993: The World Trade Center in New York City was badly damaged when a car bomb planted by Islamic terrorists exploded in an underground garage. The bomb left 6 people dead and 1,000 injured. The men carrying out the attack were followers of Umar Abd al-Rahman, an Egyptian cleric who preached in the New York City area.

Attempted Assassination of President Bush by Iraqi Agents, April 14, 1993: The Iraqi intelligence service attempted to assassinate former U.S. President George Bush during a visit to Kuwait. In retaliation, the U.S. launched a cruise missile attack 2 months later on the Iraqi capital Baghdad.

1994

Hebron Massacre, February 25, 1994: Jewish right-wing extremist and U.S. citizen Baruch Goldstein machine-gunned Moslem worshippers at a mosque in West Bank town of Hebron, killing 29 and wounding about 150.

FARC Hostage-taking, September 23, 1994: FARC rebels kidnapped U.S. citizen Thomas Hargrove in Colombia.

Air France Hijacking, December 24, 1994: Members of the Armed Islamic Group seized an Air France Flight to Algeria. The four terrorists were killed during a rescue effort.

1995

Attack on U.S. Diplomats in Pakistan, March 8, 1995: Two unidentified gunmen killed two U.S. diplomats and wounded a third in Karachi, Pakistan.

Tokyo Subway Station Attack, March 20, 1995: Twelve persons were killed and 5,700 were injured in a Sarin nerve gas attack on a crowded subway station in the center of Tokyo, Japan. A similar attack occurred nearly simultaneously in the Yokohama subway system. The Aum Shinri-kyo cult was blamed for the attacks.

Bombing of the Federal Building in Oklahoma City, April 19, 1995: Right-wing extremists Timothy McVeigh and Terry Nichols destroyed the Federal Building in Oklahoma City with a massive truck bomb that killed 166 and injured hundreds more in what was up to then the largest terrorist attack on American soil.

Kashmiri Hostage-taking, July 4, 1995: In India six foreigners, including two U.S. citizens, were taken hostage by Al-Faran, a Kashmiri separatist group. One non-U.S. hostage was later found beheaded.

Jerusalem Bus Attack, August 21, 1995: HAMAS claimed responsibility for the detonation of a bomb that killed 6 and injured over 100 persons, including several U.S. citizens.

Attack on U.S. Embassy in Moscow, September 13, 1995: A rocket-propelled grenade was fired through the window of the U.S. Embassy in Moscow, ostensibly in retaliation

for U.S. strikes on Serb positions in Bosnia.

Saudi Military Installation Attack, November 13, 1995: The Islamic Movement of Change planted a bomb in a Riyadh military compound that killed one U.S. citizen, several foreign national employees of the U.S. government, and over 40 others.

Egyptian Embassy Attack, November 19, 1995: A suicide bomber drove a vehicle into the Egyptian Embassy compound in Islamabad, Pakistan, killing at least 16 and injuring 60 persons. Three militant Islamic groups claimed responsibility.

1996

Papuan Hostage Abduction, January 8, 1996: In Indonesia, 200 Free Papua Movement (OPM) guerrillas abducted 26 individuals in the Lorenta nature preserve, Irian Jaya Province. Indonesian Special Forces members rescued the remaining nine hostages on May 15.

Kidnapping in Colombia, January 19, 1996: Revolutionary Armed Forces of Colombia (FARC) guerrillas kidnapped a U.S. citizen and demanded a \$1 million ransom. The hostage was released on May 22.

Tamil Tigers Attack, January 31, 1996: Members of the Liberation Tigers of Tamil Eelam (LTTE) rammed an explosives-laden truck into the Central Bank in the heart of downtown Colombo, Sri Lanka, killing 90 civilians and injuring more than 1,400 others, including 2 U.S. citizens.

IRA Bombing, February 9, 1996: An Irish Republican Army (IRA) bomb detonated in London, killing 2 persons and wounding more than 100 others, including 2 U.S. citizens.

Athens Embassy Attack, February 15, 1996: Unidentified assailants fired a rocket at the U.S. Embassy compound in Athens, causing minor damage to three diplomatic vehicles and some surrounding buildings. Circumstances of the attack suggested it was an operation carried out by the 17 November group.

ELN Kidnapping, February 16, 1996: Six alleged National Liberation Army (ELN) guerrillas kidnapped a U.S. citizen in Colombia. After 9 months, the hostage was released.

HAMAS Bus Attack, February 26, 1996: In Jerusalem, a suicide bomber blew up a bus, killing 26 persons, including three U.S. citizens, and injuring some 80 persons, including three other U.S. citizens.

Dizengoff Center Bombing, March 4, 1996: HAMAS and the Palestine Islamic Jihad (PIJ) both claimed responsibility for a bombing outside of Tel Aviv's largest shopping mall that killed 20 persons and injured 75 others, including 2 U.S. citizens.

West Bank Attack, May 13, 1996: Arab gunmen opened fire on a bus and a group of Yeshiva students near the Bet El settlement, killing a dual U.S./Israeli citizen and wounding three Israelis. No one claimed responsibility for the attack, but HAMAS was suspected.

AID Worker Abduction, May 31, 1996: A gang of former Contra guerrillas kidnapped a U.S. employee of the Agency for International Development (AID) who was assisting with election preparations in rural northern Nicaragua. She was released unharmed the next day after members of the international commission overseeing the preparations intervened.

Zekharya Attack, June 9, 1996: Unidentified gunmen opened fire on a car near Zekharya, killing a dual U.S./Israeli citizen and an Israeli. The Popular Front for the Liberation of Palestine (PFLP) was suspected.

Manchester Truck Bombing, June 15, 1996: An IRA truck bomb detonated at a Manchester shopping center, wounding 206 persons, including two German tourists, and caused extensive property damage.

**Khobar Towers Bombing, June 25, 1996:** A fuel truck carrying a bomb exploded outside the U.S. military's Khobar Towers housing facility in Dhahran, killing 19 U.S. military personnel and wounding 515 persons, including 240 U.S. personnel. Several groups claimed responsibility for the attack.

**ETA Bombing, July 20, 1996:** A bomb exploded at Tarragona International Airport in Reus, Spain, wounding 35 persons, including British and Irish tourists. The Basque Fatherland and Liberty (ETA) organization was suspected.

**Bombing of Archbishop of Oran, August 1, 1996:** A bomb exploded at the home of the French Archbishop of Oran, killing him and his chauffeur. The attack occurred after the Archbishop's meeting with the French Foreign Minister. The Algerian Armed Islamic Group (GIA) is suspected.

**Sudanese Rebel Kidnapping, August 17, 1996:** Sudan People's Liberation Army (SPLA) rebels kidnapped six missionaries in Mapourdit, including a U.S. citizen, an Italian, three Australians, and a Sudanese. The SPLA released the hostages 11 days later.

**PUK Kidnapping, September 13, 1996:** In Iraq, Patriotic Union of Kurdistan (PUK) militants kidnapped four French workers for Pharmaciens Sans Frontieres, a Canadian United Nations High Commissioner for Refugees (UNHCR) official, and two Iraqis.

**Assassination of South Korean Consul, October 1, 1996:** In Vladivostok, Russia, assailants attacked and killed a South Korean consul near his home. No one claimed responsibility, but South Korean authorities believed that the attack was carried out by professionals and that the assailants were North Koreans. North Korean officials denied the country's involvement in the attack.

**Red Cross Worker Kidnappings, November 1, 1996:** In Sudan a breakaway group from the Sudanese People's Liberation Army (SPLA) kidnapped three International Committee of the Red Cross (ICRC) workers, including a U.S. citizen, an Australian, and a Kenyan. On 9 December the rebels released the hostages in exchange for ICRC supplies and a health survey for their camp.

**Paris Subway Explosion, December 3, 1996:** A bomb exploded aboard a Paris subway train as it arrived at the Port Royal station, killing two French nationals, a Moroccan, and a Canadian, and injuring 86 persons. Among those injured were one U.S. citizen and a Canadian. No one claimed responsibility for the attack, but Algerian extremists are suspected.

**Abduction of U.S. Citizen by FARC, December 11, 1996:** Five armed men claiming to be members of the Revolutionary Armed Forces of Colombia (FARC) kidnapped and later killed a U.S. geologist at a methane gas exploration site in La Guajira Department.

**Tupac Amaru Seizure of Diplomats, December 17, 1996:** Twenty-three members of the Tupac Amaru Revolutionary Movement (MRTA) took several hundred people hostage at a party given at the Japanese Ambassador's residence in Lima, Peru. Among the hostages were several U.S. officials, foreign ambassadors and other diplomats, Peruvian government officials, and Japanese businessmen. The group demanded the release of all MRTA members in prison and safe passage for them and the hostage takers. The terrorists released most of the hostages in December but held 81 Peruvians and Japanese citizens for several months.

1997

**Egyptian Letter Bombs, January 2-13, 1997:** A series of letter bombs with Alexandria, Egypt, postmarks were discovered at Al-Hayat newspaper bureaus in Washington, New York City, London, and Riyadh, Saudi

Arabia. Three similar devices, also postmarked in Egypt, were found at a prison facility in Leavenworth, Kansas. Bomb disposal experts defused all the devices, but one detonated at the Al-Hayat office in London, injuring two security guards and causing minor damage.

**Tajik Hostage Abductions, February 4-17, 1997:** Near Komsomolabad, Tajikistan, a paramilitary group led by Bakhrom Sodirov abducted four United Nations (UN) military observers. The victims included two Swiss, one Austrian, one Ukrainian, and their Tajik interpreter. The kidnappers demanded safe passage for their supporters from Afghanistan to Tajikistan. In four separate incidents occurring between Dushanbe and Garm, Bakhrom Sodirov and his group kidnapped two International Committee for the Red Cross members, four Russian journalists and their Tajik driver, four UNHCR members, and the Tajik Security Minister, Saidamir Zuhurov.

**Venezuelan Abduction, February 14, 1997:** Six armed Colombian guerrillas kidnapped a U.S. oil engineer and his Venezuelan pilot in Apure, Venezuela. The kidnappers released the Venezuelan pilot on 22 February. According to authorities, the FARC is responsible for the kidnapping.

**Empire State Building Sniper Attack, February 23, 1997:** A Palestinian gunman opened fire on tourists at an observation deck atop the Empire State Building in New York City, killing a Danish national and wounding visitors from the United States, Argentina, Switzerland, and France before turning the gun on himself. A handwritten note carried by the gunman claimed this was a punishment attack against the "enemies of Palestine."

**ELN Kidnapping, February 24, 1997:** National Liberation Army (ELN) guerrillas kidnapped a U.S. citizen employed by a Las Vegas gold corporation who was scouting a gold mining operation in Colombia. The ELN demanded a ransom of \$2.5 million.

**FARC Kidnapping, March 7, 1997:** FARC guerrillas kidnapped a U.S. mining employee and his Colombian colleague who were searching for gold in Colombia. On November 16, the rebels released the two hostages after receiving a \$50,000 ransom.

**Hotel Nacional Bombing, July 12, 1997:** A bomb exploded at the Hotel Nacional in Havana, injuring three persons and causing minor damage. A previously unknown group calling itself the Military Liberation Union claimed responsibility.

**Israeli Shopping Mall Bombing, September 4, 1997:** Three suicide bombers of HAMAS detonated bombs in the Ben Yehuda shopping mall in Jerusalem, killing eight persons, including the bombers, and wounding nearly 200 others. A dual U.S./Israeli citizen was among the dead, and 7 U.S. citizens were wounded.

**OAS Abductions, October 23, 1997:** In Colombia ELN rebels kidnapped two foreign members of the Organization of American States (OAS) and a Colombian human rights official at a roadblock. The ELN claimed that the kidnapping was intended "to show the international community that the elections in Colombia are a farce."

**Yemeni Kidnappings, October 30, 1997:** Al-Sha'if tribesmen kidnapped a U.S. businessman near Sanaa. The tribesmen sought the release of two fellow tribesmen who were arrested on smuggling charges and several public works projects they claim the government promised them. They released the hostage on November 27.

**Murder of U.S. Businessmen in Pakistan, November 12, 1997:** Two unidentified gunmen shot to death four U.S. auditors from Union Texas Petroleum Corporation and their Pakistani driver after they drove away from the

Sheraton Hotel in Karachi. The Islami Inqilabi Council, or Islamic Revolutionary Council, claimed responsibility in a call to the U.S. Consulate in Karachi. In a letter to Pakistani newspapers, the Aimal Khufia Action Committee also claimed responsibility.

**Tourist Killings in Egypt, November 17, 1997:** Al-Gama'at al-Islamiyya (IG) gunmen shot and killed 58 tourists and four Egyptians and wounded 26 others at the Hatshepsut Temple in the Valley of the Kings near Luxor. Thirty-four Swiss, eight Japanese, five Germans, four Britons, one French, one Colombian, a dual Bulgarian/British citizen, and four unidentified persons were among the dead. Twelve Swiss, two Japanese, two Germans, one French, and nine Egyptians were among the wounded.

1998

**UN Observer Abductions, February 19, 1998:** Armed supporters of late Georgian president Zviad Gamsakhurdia abducted four UN military observers from Sweden, Uruguay, and the Czech Republic.

**FARC Abduction, March 21-23, 1998:** FARC rebels kidnapped a U.S. citizen in Sabaneta, Colombia. FARC members also killed three persons, wounded 14, and kidnapped at least 27 others at a roadblock near Bogota. Four U.S. citizens and one Italian were among those kidnapped, as well as the acting president of the National Electoral Council (CNE) and his wife.

**Somali Hostage-takings, April 15, 1998:** Somali militiamen abducted nine Red Cross and Red Crescent workers at an airstrip north of Mogadishu. The hostages included a U.S. citizen, a German, a Belgian, a French, a Norwegian, two Swiss, and one Somali. The gunmen were members of a sub-clan loyal to Ali Mahdi Mohammed, who controlled the northern section of the capital.

**IRA Bombing, Banbridge, August 1, 1998:** A 500-pound car bomb planted by the Real IRA exploded outside a shoe store in Banbridge, North Ireland, injuring 35 persons and damaging at least 200 homes.

**U.S. Embassy Bombings in East Africa, August 7, 1998:** A bomb exploded at the rear entrance of the U.S. Embassy in Nairobi, Kenya, killing 12 U.S. citizens, 32 Foreign Service Nationals (FSNs), and 247 Kenyan citizens. Approximately 5,000 Kenyans, 6 U.S. citizens, and 13 FSNs were injured. The U.S. Embassy building sustained extensive structural damage. Almost simultaneously, a bomb detonated outside the U.S. Embassy in Dar es Salaam, Tanzania, killing 7 FSNs and 3 Tanzanian citizens, and injuring 1 U.S. citizen and 76 Tanzanians. The explosion caused major structural damage to the U.S. Embassy facility. The U.S. Government held Usama Bin Laden responsible.

**IRA Bombing, Omagh, August 15, 1998:** A 500-pound car bomb planted by the Real IRA exploded outside a local courthouse in the central shopping district of Omagh, Northern Ireland, killing 29 persons and injuring over 330.

**Colombian Pipeline Bombing, October 18, 1998:** A National Liberation Army (ELN) planted bomb exploded on the Ocesa pipeline in Antioquia Department, killing approximately 71 persons and injuring at least 100 others. The pipeline is jointly owned by the Colombia State Oil Company Ecopetrol and a consortium including U.S., French, British, and Canadian companies.

**Armed Kidnapping in Colombia, November 15, 1998:** Armed assailants followed a U.S. businessman and his family home in Cundinamarca Department and kidnapped his 11-year-old son after stealing money, jewelry, one automobile, and two cell phones. The kidnappers demanded \$1 million in ransom. On January 21, 1999, the kidnappers released the boy.

1999

Angolan Aircraft Downing, January 2, 1999: A UN plane carrying one U.S. citizen, four Angolans, two Philippine nationals and one Namibian was shot down, according to a UN official. No deaths or injuries were reported. Angolan authorities blamed the attack on National Union for the Total Independence of Angola (UNITA) rebels. UNITA officials denied shooting down the plane.

Ugandan Rebel Attack, February 14, 1999: A pipe bomb exploded inside a bar, killing five persons and injuring 35 others. One Ethiopian and four Ugandan nationals died in the blast, and one U.S. citizen working for USAID, two Swiss nationals, one Pakistani, one Ethiopian, and 27 Ugandans were injured. Ugandan authorities blamed the attack on the Allied Democratic Forces (ADF).

Greek Embassy Seizure, February 16, 1999: Kurdish protesters stormed and occupied the Greek Embassy in Vienna, taking the Greek Ambassador and six other persons hostage. Several hours later the protesters released the hostages and left the Embassy. The attack followed the Turkish Government's announcement of the successful capture of the Kurdistan Workers' Party (PKK) leader Abdullah Ocalan. Kurds also occupied Kenyan, Israeli, and other Greek diplomatic facilities in France, Holland, Switzerland, Britain, and Germany over the following days.

FARC Kidnappings, February 25, 1999: FARC kidnapped three U.S. citizens working for the Hawaii-based Pacific Cultural Conservancy International. On March 4, the bodies of the three victims were found in Venezuela.

Hutu Abductions, March 1, 1999: 150 armed Hutu rebels attacked three tourist camps in Uganda, killed four Ugandans, and abducted three U.S. citizens, six Britons, three New Zealanders, two Danish citizens, one Australian, and one Canadian national. Two of the U.S. citizens and six of the other hostages were subsequently killed by their abductors.

ELN Hostage-taking, March 23, 1999: Armed guerrillas kidnapped a U.S. citizen in Boyaca, Colombia. The National Liberation Army (ELN) claimed responsibility and demanded \$400,000 ransom. On 20 July, ELN rebels released the hostage unharmed following a ransom payment of \$48,000.

ELN Hostage-taking, May 30, 1999: In Cali, Colombia, armed ELN militants attacked a church in the neighborhood of Ciudad Jardin, kidnapping 160 persons, including six U.S. citizens and one French national. The rebels released approximately 80 persons, including three U.S. citizens, later that day.

Shell Platform Bombing, June 27, 1999: In Port Harcourt, Nigeria, armed youths stormed a Shell oil platform, kidnapping one U.S. citizen, one Nigerian national, and one Australian citizen, and causing undetermined damage. A group calling itself "Enough is Enough in the Niger River" claimed responsibility. Further seizures of oil facilities followed.

AFRC Kidnappings, August 4, 1999: An Armed Forces Revolutionary Council (AFRC) faction kidnapped 33 UN representatives near Occra Hills, Sierra Leone. The hostages included one U.S. citizen, five British soldiers, one Canadian citizen, one representative from Ghana, one military officer from Russia, one officer from Kyrgyzstan, one officer from Zambia, one officer from Malaysia, a local bishop, two UN officials, two local journalists, and 16 Sierra Leonean nationals.

Burmese Embassy Seizure, October 1, 1999: Burmese dissidents seized the Burmese Embassy in Bangkok, Thailand, taking 89 persons hostage, including one U.S. citizen.

PLA Kidnapping, December 23, 1999: Colombian People's Liberation Army (PLA)

forces kidnapped a U.S. citizen in an unsuccessful ransom effort.

Indian Airlines Airbus Hijacking, December 24, 1999: Five militants hijacked a flight bound from Katmandu to New Delhi carrying 189 people. The plane and its passengers were released unharmed on December 31.

2000

Car bombing in Spain, January 27, 2000: Police officials reported unidentified individuals set fire to a Citroen car dealership in Iturreta, causing extensive damage to the building and destroying 12 vehicles. The attack bore the hallmark of the Basque Fatherland and Liberty (ETA).

RUF Attacks on U.N. Mission Personnel, May 1, 2000: On 1 May in Makeni, Sierra Leone, Revolutionary United Front (RUF) militants kidnapped at least 20 members of the United Nations Assistance Mission in Sierra Leone (UNAMSIL) and surrounded and opened fire on a UNAMSIL facility, according to press reports. The militants killed five UN soldiers in the attack. RUF militants kidnapped 300 UNAMSIL peacekeepers throughout the country, according to press reports. On 15 May in Foya, Liberia, the kidnappers released 139 hostages. On 28 May, on the Liberia and Sierra Leone border, armed militants released unharmed the last of the UN peacekeepers. In Freetown, according to press reports, armed militants ambushed two military vehicles carrying four journalists. A Spaniard and one U.S. citizen were killed in a May 25 car bombing in Freetown for which the RUF was probably responsible. Suspected RUF rebels also kidnapped 21 Indian UN peacekeepers in Freetown on June 6. Additional attacks by RUF on foreign personnel followed.

Diplomatic Assassination in Greece, June 8, 2000: In Athens, Greece, two unidentified gunmen killed British Defense Attaché Stephen Saunders in an ambush. The Revolutionary Organization 17 November claimed responsibility.

ELN Kidnapping, June 27, 2000: In Bogota, Colombia, ELN militants kidnapped a 5-year-old U.S. citizen and his Colombian mother, demanding an undisclosed ransom.

Kidnappings in Kyrgyzstan, August 12, 2000: In the Kara-Su Valley, the Islamic Movement of Uzbekistan took four U.S. citizens hostage. The Americans escaped on August 12.

Church Bombing in Tajikistan, October 1, 2000: Unidentified militants detonated two bombs in a Christian church in Dushanbe, killing seven persons and injuring 70 others. The church was founded by a Korean-born U.S. citizen, and most of those killed and wounded were Korean. No one claimed responsibility.

Helicopter Hijacking, October 12, 2000: In Sucumbios Province, Ecuador, a group of armed kidnappers led by former members of defunct Colombian terrorist organization the Popular Liberation Army (EPL), took hostage 10 employees of Spanish energy consortium REPSOL. Those kidnapped included five U.S. citizens, one Argentine, one Chilean, one New Zealander, and two French pilots who escaped four days later. On January 30, 2001, the kidnappers murdered American hostage Ronald Sander. The remaining hostages were released on February 23 following the payment of \$13 million in ransom by the oil companies.

Attack on U.S.S. *Cole*, October 12, 2000: In Aden, Yemen, a small dingy carrying explosives rammed the destroyer U.S.S. *Cole*, killing 17 sailors and injuring 39 others. Supporters of Usama Bin Laden were suspected.

Manila Bombing, December 30, 2000: A bomb exploded in a plaza across the street from the U.S. Embassy in Manila, injuring nine persons. The Moro Islamic Liberation Front was likely responsible.

2001

Srinagar Airport Attack and Assassination Attempt, January 17, 2001: In India, six members of the Lashkar-e-Tayyba militant group were killed when they attempted to seize a local airport. Members of Hizbul Mujaheddin fired two rifle grenades at Farooq Abdullah, Chief Minister for Jammu and Kashmir. Two persons were wounded in the unsuccessful assassination attempt.

BBC Studios Bombing, March 4, 2001: A car bomb exploded at midnight outside of the British Broadcasting Corporation's main production studios in London. One person was injured. British authorities suspected the Real IRA had planted the bomb.

Suicide Bombing in Israel, March 4, 2001: A suicide bomb attack in Netanya killed 3 persons and wounded 65. HAMAS later claimed responsibility.

ETA Bombing, March 9, 2001: Two policemen were killed by the explosion of a car bomb in Hernani, Spain.

Airliner Hijacking in Istanbul, March 15, 2001: Three Chechens hijacked a Russian airliner during a flight from Istanbul to Moscow and forced it to fly to Medina, Saudi Arabia. The plane carried 162 passengers and a crew of 12. After a 22-hour siege during which more than 40 passengers were released, Saudi security forces stormed the plane, killing a hijacker, a passenger, and a flight attendant.

Bus Stop Bombing, April 22, 2001: A member of HAMAS detonated a bomb he was carrying near a bus stop in Kfar Siva, Israel, killing one person and injuring 60.

Philippines Hostage Incident, May 27, 2001: Muslim Abu Sayyaf guerrillas seized 13 tourists and 3 staff members at a resort on Palawan Island and took their captives to Basilan Island. The captives included three U.S. citizens: Guillermo Sobero and missionaries Martin and Gracia Burnham. Philippine troops fought a series of battles with the guerrillas between June 1 and June 3 during which 9 hostages escaped and two were found dead. The guerrillas took additional hostages when they seized the hospital in the town of Lamitan. On June 12, Abu Sayyaf spokesman Abu Sabaya claimed that Sobero had been killed and beheaded; his body was found in October. The Burnhams remained in captivity until June 2002.

Tel-Aviv Nightclub Bombing, June 1, 2001: HAMAS claimed responsibility for the suicide bombing of a popular Israeli nightclub that caused over 140 casualties.

HAMAS Restaurant Bombing, August 9, 2001: A HAMAS-planted bomb detonated in a Jerusalem pizza restaurant, killing 15 people and wounding more than 90. The Israeli response included occupation of Orient House, the Palestine Liberation Organization's political headquarters in East Jerusalem.

Suicide Bombing in Israel, September 9, 2001: The first suicide bombing carried out by an Israeli Arab killed 3 persons in Nahariya. HAMAS claimed responsibility.

Death of "the Lion of the Panjshir", September 9, 2001: Two suicide bombers fatally wounded Ahmed Shah Massoud, a leader of Afghanistan's Northern Alliance, which had opposed both the Soviet occupation and the post-Soviet Taliban government. The bombers posed as journalists and were apparently linked to al-Qaida. The Northern Alliance did not confirm Massoud's death until September 15.

Terrorist Attacks on U.S. Homeland, September 11, 2001: Two hijacked airliners crashed into the twin towers of the World Trade Center. Soon thereafter, the Pentagon was struck by a third hijacked plane. A fourth hijacked plane, suspected to be bound for a high-profile target in Washington,

crashed into a field in southern Pennsylvania. The attacks killed 3,025 U.S. citizens and other nationals. President Bush and Cabinet officials indicated that Usama Bin Laden was the prime suspect and that they considered the United States in a state of war with international terrorism. In the aftermath of the attacks, the United States formed the Global Coalition Against Terrorism.

Attack on the Jammu and Kashmir Legislature, October 1, 2001: After a suicide car bomber forced the gate of the state legislature in Srinagar, two gunmen entered the building and held off police for seven hours before being killed. Forty persons died in the incident. Jaish-e-Muhammad claimed responsibility.

Anthrax Attacks, October–November 2001: On October 7 the U.S. Centers for Disease Control and Prevention (CDC) reported that investigators had detected evidence that the deadly anthrax bacterium was present in the building where a Florida man who died of anthrax on October 5 had worked. Discovery of a second anthrax case triggered a major investigation by the Federal Bureau of Investigation (FBI). The two anthrax cases were the first to appear in the United States in 25 years. Anthrax subsequently appeared in mail received by television networks in New York and by the offices in Washington of Senate Majority Leader Tom Daschle and other members of Congress. Attorney General John Ashcroft said in a briefing on October 16, "When people send anthrax through the mail to hurt people and invoke terror, it's a terrorist act."

Assassination of an Israeli Cabinet Minister, October 17, 2001: A Palestinian gunman assassinated Israeli Minister of Tourism Rehavam Zeevi in the Jerusalem hotel where he was staying. The Popular Front for the Liberation of Palestine (PFLP) claimed to have avenged the death of PFLP Mustafa Zubari.

Attack on a Church in Pakistan, October 28, 2001: Six masked gunmen shot up a church in Bahawalpur, Pakistan, killing 15 Pakistani Christians. No group claimed responsibility, although various militant Muslim groups were suspected.

Suicide Bombings in Jerusalem, December 1, 2001: Two suicide bombers attacked a Jerusalem shopping mall, killing 10 persons and wounding 170.

Suicide Bombing in Haifa, December 2, 2001: A suicide bomb attack aboard a bus in Haifa, Israel, killed 15 persons and wounded 40. HAMAS claimed responsibility for both this attack and those on December 1 to avenge the death of a HAMAS member at the hands of Israeli forces a week earlier.

Attack on the Indian Parliament, December 13, 2001: Five gunmen attacked the Indian Parliament in New Delhi shortly after it had adjourned. Before security forces killed them, the attackers killed 6 security personnel and a gardener. Indian officials blamed Lashkar-e-Tayyiba and demanded that Pakistan crack down on it and on other Muslim separatist groups in Kashmir.

2002

Ambush on the West Bank, January 15, 2002: Palestinian militants fired on a vehicle in Beit Sahur, killing one passenger and wounding the other. The dead passenger claimed U.S. and Israeli citizenship. The al-Aqsa Martyrs' Battalion claimed responsibility.

Shooting Incident in Israel, January 17, 2002: A Palestinian gunman killed 6 persons and wounded 25 in Hadera, Israel, before being killed by Israeli police. The al-Aqsa Martyrs' Brigades claimed responsibility as revenge for Israel's killing of a leading member of the group.

Drive-By Shooting at a U.S. Consulate, January 22, 2002: Armed militants on motorcycles fired on the U.S. Consulate in Calcutta, India, killing 5 Indian security personnel and wounding 13 others. The Harakat ul-Jihad-I-Islami and the Asif Raza Commandoes claimed responsibility. Indian police later killed two suspects, one of whom confessed to belonging to Lashkar-e-Tayyiba as he died.

Bomb Explosion in Kashmir, January 22, 2002: A bomb exploded in a crowded retail district in Jammu, Kashmir, killing one person and injuring nine. No group claimed responsibility.

Kidnapping of Daniel Pearl, January 23, 2002: Armed militants kidnapped Wall Street Journal reporter Daniel Pearl in Karachi, Pakistan. Pakistani authorities received a videotape on February 20 depicting Pearl's murder. His grave was found near Karachi on May 16. Pakistani authorities arrested four suspects. Ringleader Ahmad Omar Saeed Sheikh claimed to have organized Pearl's kidnapping to protest Pakistan's subservience to the United States, and had belonged to Jaish-e-Muhammad, an Islamic separatist group in Kashmir. All four suspects were convicted on July 15. Saeed Sheikh was sentenced to death, the others to life imprisonment.

Suicide Bombing in Jerusalem, January 27, 2002: A suicide bomb attack in Jerusalem killed one other person and wounded 100. The incident was the first suicide bombing made by a Palestinian woman.

Suicide Bombing in the West Bank, February 16, 2002: A suicide bombing in an outdoor food court in Karmei Shomron killed 4 persons and wounded 27. Two of the dead and two of the wounded were U.S. citizens. The Popular Front for the Liberation of Palestine (PFLP) claimed responsibility.

Suicide Bombing in the West Bank, March 7, 2002: A suicide bombing in a supermarket in the settlement of Ariel wounded 10 persons, one of whom was a U.S. citizen. The PFLP claimed responsibility.

Suicide Bombing in Jerusalem, March 9, 2002: A suicide bombing in a Jerusalem restaurant killed 11 persons and wounded 52, one of whom was a U.S. citizen. The al-Aqsa Martyrs' Brigades claimed responsibility.

Drive-By Shooting in Colombia, March 14, 2002: Gunmen on motorcycles shot and killed two U.S. citizens who had come to Cali, Colombia, to negotiate the release of their father, who was a captive of the FARC. No group claimed responsibility.

Grenade Attack on a Church in Pakistan, March 17, 2002: Militants threw grenades into the Protestant International Church in Islamabad, Pakistan, during a service attended by diplomatic and local personnel. Five persons, two of them U.S. citizens, were killed and 46 were wounded. The dead Americans were State Department employee Barbara Green and her daughter Kristen Wormsley. Thirteen U.S. citizens were among the wounded. The Lashkar-e-Tayyiba group was suspected.

Car Bomb Explosion in Peru, March 20, 2002: A car bomb exploded at a shopping center near the U.S. Embassy in Lima, Peru. Nine persons were killed and 32 wounded. The dead included two police officers and a teenager. Peruvian authorities suspected either the Shining Path rebels or the Tupac Amaru Revolutionary Movement. The attack occurred 3 days before President George W. Bush visited Peru.

Suicide Bombing in Jerusalem, March 21, 2002: A suicide bombing in Jerusalem killed 3 persons and wounded 86 more, including 2 U.S. citizens. The Palestinian Islamic Jihad claimed responsibility.

Suicide Bombing in Israel, March 27, 2002: A suicide bombing in a noted restaurant in

Netanya, Israel, killed 22 persons and wounded 140. One of the dead was a U.S. citizen. The Islamic Resistance Movement (HAMAS) claimed responsibility.

Temple Bombing in Kashmir, March 30, 2002: A bomb explosion at a Hindu temple in Jammu, Kashmir, killed 10 persons. The Islamic Front claimed responsibility.

Suicide Bombing in the West Bank, March 31, 2002: A suicide bombing near an ambulance station in Efrat wounded four persons, including a U.S. citizen. The al-Aqsa Martyrs' Brigades claimed responsibility.

Armed attack on Kashmir, April 10, 2002: Armed militants attacked a residence in Gando, Kashmir, killing five persons and wounding four. No group claimed responsibility.

Synagogue Bombing in Tunisia, April 11, 2002: A suicide bomber detonated a truck loaded with propane gas outside a historic synagogue in Djerba, Tunisia. The 16 dead included 11 Germans, one French citizen, and three Tunisians. Twenty-six German tourists were injured. The Islamic Army for the Liberation of the Holy Sites claimed responsibility.

Suicide Bombing in Jerusalem, April 12, 2002: A female suicide bomber killed 6 persons in Jerusalem and wounded 90 others. The al-Aqsa Martyrs' Brigades claimed responsibility.

Car Bombing in Pakistan, May 8, 2002: A car bomb exploded near a Pakistani navy shuttle bus in Karachi, killing 12 persons and wounding 19. Eleven of the dead and 11 of the wounded were French nationals. Al-Qaida was suspected of the attack.

Parade Bombing in Russia, May 9, 2002: A remotely-controlled bomb exploded near a May Day parade in Kaspiisk, Dagestan, killing 42 persons and wounding 150. Fourteen of the dead and 50 of the wounded were soldiers. Islamists linked to al-Qaida were suspected.

Attack on a Bus in India, May 14, 2002: Militants fired on a passenger bus in Kaluchak, Jammu, killing 7 persons. They then entered a military housing complex and killed 3 soldiers and 7 military dependents before they were killed. The al-Mansooran and Jamiat ul-Mujahedin claimed responsibility.

Bomb Attacks in Kashmir, May 17, 2002: A bomb explosion near a civil secretariat area in Srinagar, Kashmir, wounded 6 persons. In Jammu, a bomb exploded at a fire services headquarters, killing two and wounding 16. No group claimed responsibility for either attack.

Hostage Rescue Attempt in the Philippines, June 7, 2002: Philippine Army troops attacked Abu Sayyaf terrorists on Mindanao Island in an attempt to rescue U.S. citizen Martin Burnham and his wife Gracia, who had been kidnapped more than a year ago. Burnham was killed but his wife, though wounded, was freed. A Filipino hostage was killed, as were four of the guerrillas. Seven soldiers were wounded.

Car Bombing in Pakistan, June 14, 2002: A car bomb exploded near the U.S. Consulate and the Marriott Hotel in Karachi, Pakistan. Eleven persons were killed and 51 were wounded, including one U.S. and one Japanese citizen. Al Qaida and al-Qanin were suspected.

Suicide Bombing in Jerusalem, June 19, 2002: A suicide bombing at a bus stop in Jerusalem killed 6 persons and wounded 43, including 2 U.S. citizens. The al-Aqsa Martyrs' Brigades claimed responsibility.

Suicide Bombing in Tel Aviv, July 17, 2002: Two suicide bombers attacked the old bus station in Tel Aviv, Israel, killing 5 persons and wounding 38. The dead included one Romanian and two Chinese; another Romanian was wounded. The Islamic Jihad claimed responsibility.



Bombing at the Hebrew University, July 31, 2002: A bomb hidden in a bag in the Frank Sinatra International Student Center of Jerusalem's Hebrew University killed 9 persons and wounded 87. The dead included 5 U.S. citizens and 4 Israelis. The wounded included 4 U.S. citizens, 2 Japanese, and 3 South Koreans. The Islamic Resistance Movement (HAMAS) claimed responsibility.

Suicide Bombing in Israel, August 4, 2002: A suicide bomb attack on a bus in Safed, Israel, killed 9 persons and wounded 50. Two of the dead were Philippine citizens; many of the wounded were soldiers returning from leave. HAMAS claimed responsibility.

Attack on a School in Pakistan, August 5, 2002: Gunmen attacked a Christian school attended by children of missionaries from around the world. Six persons (two security guards, a cook, a carpenter, a receptionist, and a private citizen) were killed and a Philippine citizen was wounded. A group called al-Intigami al-Pakistani claimed responsibility.

Attack on Pilgrims in Kashmir, August 6, 2002: Armed militants attacked a group of Hindu pilgrims with guns and grenades in Pahalgam, Kashmir. Nine persons were killed and 32 were wounded. The Lashkar-e-Tayyiba claimed responsibility.

Assassination in Kashmir, September 11, 2002: Gunmen killed Kashmir's Law Minister Mushtaq Ahmed Lone and six security guards in Tikipora. Lashkar-e-Tayyiba, Jamiat ul-Mujahedin, and Hizb ul-Mujahedin all claimed responsibility. Other militants attacked the residence of the Minister of Tourism with grenades, injuring four persons. No group claimed responsibility.

Ambush on the West Bank, September 18, 2002: Gunmen ambushed a vehicle on a road near Yahad, killing an Israeli and wounding a Romanian worker. The al-Aqsa Martyrs' Brigades claimed responsibility.

Suicide Bomb Attack in Israel, September 19, 2002: A suicide bomb attack on a bus in Tel Aviv killed 6 persons and wounded 52. One of the dead was a British subject. HAMAS claimed responsibility.

Attack on a French Tanker, October 6, 2002: An explosive-laden boat rammed the French oil tanker Limburg, which was anchored about 5 miles off al-Dhabbah, Yemen. One person was killed and 4 were wounded. Al-Qaida was suspected.

Car Bomb Explosion in Bali, October 12, 2002: A car bomb exploded outside the Sari Club Discotheque in Denpasar, Bali, Indonesia, killing 202 persons and wounding 300 more. Most of the casualties, including 88 of the dead, were Australian tourists. Seven Americans were among the dead. Al-Qaida claimed responsibility. Two suspects were later arrested and convicted. Iman Samudra, who had trained in Afghanistan with al-Qaeda and was suspected of belonging to Jemaah Islamiyah, was sentenced to death on September 10, 2003.

Chechen Rebels Seize a Moscow Theater, October 23–26, 2002: Fifty Chechen rebels led by Movsar Barayev seized the Palace of Culture Theater in Moscow, Russia, to demand an end to the war in Chechnya. They seized more than 800 hostages from 13 countries and threatened to blow up the theater. During a three-day siege, they killed a Russian policeman and five Russian hostages. On October 26, Russian Special Forces pumped an anesthetic gas through the ventilation system and then stormed the theater. All of the rebels were killed, but 94 hostages (including one American) also died, many from the effects of the gas. A group led by Chechen warlord Shamil Basayev claimed responsibility.

Assassination of an AID Official, October 28, 2002: Gunmen in Amman assassinated Laurence Foley, Executive Officer of the U.S. Agency for International Development

Mission in Jordan. The Honest People of Jordan claimed responsibility.

Suicide Bombing in Jerusalem, November 21, 2002: A suicide bomb attack on a bus on Mexico Street in Jerusalem killed 11 persons and wounded 50 more. One of the dead was a Romanian. HAMAS claimed responsibility.

Attack on Temples in Kashmir, November 24, 2002: Armed militants attacked the Reghunath and Shiv temples in Jammu, Kashmir, killing 13 persons and wounding 50. The Lashkar-e-Tayyiba claimed responsibility.

Attacks on Israeli Tourists in Kenya, November 28, 2002: A three-person suicide car bomb attack on the Paradise Hotel in Mombasa, Kenya, killed 15 persons and wounded 40. Three of the dead and 18 of the wounded were Israeli tourists; the others were Kenyans. Near Mombasa's airport, two SA-7 shoulder-fired missiles were fired at an Arkia Airlines Boeing 757 that was carrying 261 passengers back to Israel. Both missiles missed. Al-Qaida, the Government of Universal Palestine in Exile, and the Army of Palestine claimed responsibility for both attacks. Al-Ittihad al-Islami was also suspected of involvement.

Attack on a Bus in the Philippines, December 26, 2002: Armed militants ambushed a bus carrying Filipino workers employed by the Canadian Toronto Ventures Inc. Pacific mining company in Zamboanga del Norte. Thirteen persons were killed and 10 wounded. Philippine authorities suspected the Moro Islamic Liberation Front (MILF), which had been extorting money from Toronto Ventures. The Catholic charity Caritas-Philippines said that Toronto Ventures had harassed tribesmen who opposed mining on their ancestral lands.

Bombing of a Government Building in Chechnya, December 27, 2002: A suicide bomb attack involving two explosives-laden trucks destroyed the offices of the pro-Russian Chechen government in Grozny. The attack killed over 80 people and wounded 210. According to a Chechen website run by the Kavkaz Center, Chechen warlord Shamil Basayev claimed responsibility.

2003

Suicide Bombings in Tel Aviv, January 5, 2003: Two suicide bomb attacks killed 22 and wounded at least 100 persons in Tel Aviv, Israel. Six of the victims were foreign workers. The Al-Aqsa Martyrs' Brigades claimed responsibility.

Night Club Bombing in Colombia, February 7, 2003: A car bomb exploded outside a night club in Bogota, Colombia, killing 32 persons and wounding 160. No group claimed responsibility, but Colombian officials suspected the Colombian Revolutionary Armed Forces (FARC) of committing the worst terrorist attack in the country in a decade.

Assassination of a Kurdish Leader, February 8, 2003: Members of Ansar al-Islam assassinated Kurdish legislator Shawkat Haji Mushir and captured two other Kurdish officials in Qamash Tapa in northern Iraq.

Suicide Bombing in Haifa, March 5, 2003: A suicide bombing aboard a bus in Haifa, Israel, killed 15 persons and wounded at least 40. One of the dead claimed U.S. as well as Israeli citizenship. The bomber's affiliation was not immediately known.

Suicide Bombing in Netanya, March 30, 2003: A suicide bombing in a cafe in Netanya, Israel, wounded 38 persons. Only the bomber was killed. Islamic Jihad claimed responsibility and called the attack a "gift" to the people of Iraq.

Unsuccessful Hostage Rescue Attempt in Colombia, May 5, 2003: The FARC killed 10 hostages when Colombian special forces tried to rescue them from a jungle hideout near Urrao, in Colombia's Antioquia State. The

dead included Governor Guillermo Gavira and former Defense Minister Gilberto Echeverri Mejia, who had been kidnapped in April 2002.

Truck Bomb Attacks in Saudi Arabia, May 12, 2003: Suicide bombers attacked three residential compounds for foreign workers in Riyadh, Saudi Arabia. The 34 dead included 9 attackers, 7 other Saudis, 9 U.S. citizens, and one citizen each from the United Kingdom, Ireland, and the Philippines. Another American died on June 1. It was the first major attack on U.S. targets in Saudi Arabia since the end of the war in Iraq. Saudi authorities arrested 11 al-Qaida suspects on May 28.

Truck Bombing in Chechnya, May 12, 2003: A truck bomb explosion demolished a government compound in Znamenskoye, Chechnya, killing 54 persons. Russian authorities blamed followers of a Saudi-born Islamist named Abu Walid. President Vladimir Putin said that he suspected that there was an al-Qaida connection.

Attempted Assassination in Chechnya, May 12, 2003: Two female suicide bombers attacked Chechen Administrator Mufti Akhmed Kadyrov during a religious festival in Iiskhan Yurt. Kadyrov escaped injury, but 14 other persons were killed and 43 were wounded. Chechen rebel leader Shamil Basayev claimed responsibility.

Suicide Bomb Attacks in Morocco, May 16, 2003: A team of 12 suicide bombers attacked five targets in Casablanca, Morocco, killing 43 persons and wounding 100. The targets were a Spanish restaurant, a Jewish community, a Jewish cemetery, a hotel, and the Belgian Consulate. The Moroccan Government blamed the Islamist al-Assirat al-Moustaquim (The Righteous Path), but foreign commentators suspected an al-Qaida connection.

Suicide Bomb Attack in Jerusalem, May 18, 2003: A suicide bomb attack on a bus in Jerusalem's French Hill district killed 7 persons and wounded 20. The bomber was disguised as a religious Jew. HAMAS claimed responsibility.

Suicide Bombing in Afula, May 19, 2003: A suicide bomb attack by a female Palestinian student killed 3 persons and wounded 52 at a shopping mall in Afula, Israel. Both Islamic Jihad and the al-Aqsa Martyrs' Brigades claimed responsibility.

Suicide Bombing in Jerusalem, June 11, 2003: A suicide bombing aboard a bus in Jerusalem killed 16 persons and wounded at least 70, one of whom died later. HAMAS claimed responsibility, calling it revenge for an Israeli helicopter attack on HAMAS leader Abdelaziz al-Rantisi in Gaza City the day before.

Truck Bombing in Northern Ossetia, August 1, 2003: A suicide truck bomb attack destroyed a Russian military hospital in Mozdok, North Ossetia and killed 50 persons. Russian authorities attributed the attack to followers of Chechen rebel leader Shamil Basayev.

Hotel Bombing in Indonesia, August 5, 2003: A car bomb exploded outside the Marriott Hotel in Jakarta, Indonesia, killing 10 persons and wounding 150. One of the dead was a Dutch citizen. The wounded included an American, a Canadian, an Australian, and two Chinese. Indonesian authorities suspected the Jemaah Islamiyah, which had carried out the October 12, 2002 bombing in Bali.

Bombing of the Jordanian Embassy in Baghdad, August 7, 2003: A car bomb exploded outside the Jordanian Embassy in Baghdad, Iraq, killing 19 persons and wounding 65. Most of the victims were apparently Iraqis, including 5 police officers. No group claimed responsibility.

Suicide Bombings in Israel and the West Bank, August 12, 2003: The first suicide bombings since the June 29 Israeli-Palestinian truce took place. The first, in a supermarket at Rosh Haayin, Israel, killed one

person and wounded 14. The second, at a bus stop near the Ariel settlement in the West Bank, killed one person and wounded 3. The al-Aqsa Martyrs' Brigades claimed responsibility for the first; HAMAS claimed responsibility for the second.

Bombing of the UN Headquarters in Baghdad, August 19, 2003: A truck loaded with surplus Iraqi ordnance exploded outside the United Nations Headquarters in Baghdad's Canal Hotel. A hospital across the street was also heavily damaged. The 23 dead included UN Special Representative Sergio Viera de Mello. More than 100 persons were wounded. It was not clear whether the bomber was a Baath Party loyalist or a foreign Islamic militant. An al-Qaeda branch called the Brigades of the Martyr Abu Hafz al-Masri later claimed responsibility.

Suicide Bombing in Jerusalem, August 19, 2003: A suicide bombing aboard a bus in Jerusalem killed 20 persons and injured at least 100, one of whom died later. Five of the dead were American citizens. HAMAS and Islamic Jihad claimed responsibility, although HAMAS leader al-Rantisi said that his organization remained committed to the truce while reserving the right to respond to Israeli military actions.

Car Bomb Kills Shi'ite Leader in Najaf, August 29, 2003: A car bomb explosion outside the Shrine of the Imam Ali in Najaf, Iraq killed at least 81 persons and wounded at least 140. The dead included the Ayatollah Mohammed Bakir al-Hakim, one of four leading Shi'ite clerics in Iraq. Al-Hakim had been the leader of the Supreme Council for the Islamic Revolution in Iraq (SCIRI) since its establishment in 1982, and SCIRI had recently agreed to work with the U.S.-sponsored Iraqi Governing Council. It was not known whether the perpetrators were Baath Party loyalists, rival Shi'ites, or foreign Islamists.

Suicide Bombings in Israel, September 9, 2003: Two suicide bombings took place in Israel. The first, at a bus stop near the Tsrifin army base southeast of Tel Aviv, killed 7 soldiers and wounded 14 soldiers and a civilian. The second, at a café in Jerusalem's German Colony neighborhood, killed 6 persons and wounded 40. HAMAS did not claim responsibility until the next day, although a spokesman called the first attack "a response to Israeli aggression."

Assassination of an Iraqi Governing Council Member, September 20, 2003: Gunmen shot and seriously wounded Akila Hashimi, one of three female members of the Iraqi Governing Council, near her home in Baghdad. She died September 25.

A Second Attack on the UN Headquarters in Baghdad, September 22, 2003: A suicide car bomb attack on the UN Headquarters in Baghdad killed a security guard and wounded 19 other persons.

Suicide Bombing in Israel, October 4, 2003: A Palestinian woman made a suicide bomb attack on a restaurant in Haifa, killing 19 persons and wounding at least 55. Islamic Jihad claimed responsibility for the attack. The next day, Israel bombed a terrorist training camp in Syria.

Attacks in Iraq, October 9, 2003: Gunmen assassinated a Spanish military attaché in Baghdad. A suicide car bomb attack on an Iraqi police station killed 8 persons and wounded 40.

Car Bombings in Baghdad, October 12, 2003: Two suicide car bombs exploded outside the Baghdad Hotel, which housed U.S. officials. Six persons were killed and 32 wounded. Iraqi and U.S. security personnel apparently kept the cars from actually reaching the hotel.

Bomb Attack on U.S. Diplomats in the Gaza Strip, October 15, 2003: A remote-controlled bomb exploded under a car in a U.S. diplomatic convoy passing through the

northern Gaza Strip. Three security guards, all employees of DynCorp, were killed. A fourth was wounded. The diplomats were on their way to interview Palestinian candidates for Fulbright scholarships to study in the United States. Palestinian President Arafat and Prime Minister Qurei condemned the attack, while the major Palestinian militant groups denied responsibility. The next day, Palestinian security forces arrested several suspects, some of whom belonged to the Popular Resistance Committees.

Rocket Attack on the al-Rashid Hotel in Baghdad, October 26, 2003: Iraqis using an improvised rocket launcher bombarded the al-Rashid Hotel in Baghdad, killing one U.S. Army officer and wounding 17 persons. The wounded included 4 U.S. military personnel and seven American civilians. Deputy Secretary of Defense Paul D. Wolfowitz, who was staying at the hotel, was not injured. After visiting the wounded, he said, "They're not going to scare us away; we're not giving up on this job."

Assassination of a Deputy Mayor in Baghdad, October 26, 2003: Two gunmen believed to be Baath Party loyalists assassinated Faris Abdul Razaq al-Assam, one of three deputy mayors of Baghdad. U.S. officials did not announce al-Assam's death until October 28.

Wave of Car Bombings in Baghdad, October 27, 2003: A series of suicide car bombings in Baghdad killed at least 35 persons and wounded at least 230. Four attacks were directed at Iraqi police stations, the fifth and most destructive was directed at the International Committee of the Red Cross headquarters, where at least 12 persons were killed. A sixth attack failed when a car bomb failed to explode and the bomber was wounded and captured by Iraqi police. U.S. and Iraqi officials suspected that foreign terrorists were involved; the unsuccessful bomber said he was a Syrian national and carried a Syrian passport. After a meeting with Administrator L. Paul Bremer, President Bush said, "The more successful we are on the ground, the more these killers will react."

Suicide Bombing in Riyadh, November 8, 2003: In Riyadh, a suicide car bombing took place in the Muhaya residential compound, which was occupied mainly by nationals of other Arab countries. Seventeen persons were killed and 122 were wounded. The latter included 4 Americans. The next day, Deputy Secretary of State Armitage said al-Qaeda was probably responsible.

Truck Bombing in Nasiriyah, November 12, 2003: A suicide truck bomb destroyed the headquarters of the Italian military police in Nasiriyah, Iraq, killing 18 Italians and 11 Iraqis and wounding at least 100 persons.

Synagogue Bombings in Istanbul, November 15, 2003: Two suicide truck bombs exploded outside the Neve Shalom and Beth Israel synagogues in Istanbul, killing 25 persons and wounding at least 300 more. The initial claim of responsibility came from a Turkish militant group, the Great Eastern Islamic Raiders' Front, but Turkish authorities suspected an al-Qaeda connection. The next day, the London-based newspaper al-Quds al-Arabi received an e-mail in which an al-Qaeda branch called the Brigades of the Martyr Abu Hafz al-Masri claimed responsibility for the Istanbul synagogue bombings.

Grenade Attacks in Bogota, November 15, 2003: Grenade attacks on two bars frequented by Americans in Bogota killed one person and wounded 72, including 4 Americans. Colombian authorities suspected FARC (the Revolutionary Armed Forces of Colombia). The U.S. Embassy suspected that the attacks had targeted Americans and warned against visiting commercial centers and places of entertainment.

More Suicide Truck Bombings in Istanbul, November 20, 2003: Two more suicide truck

bombings devastated the British HSBC Bank and the British Consulate General in Istanbul, killing 27 persons and wounding at least 450. The dead included Consul General Roger Short. U.S., British, and Turkish officials suspected that al-Qaeda had struck again. The U.S. Consulate in Istanbul was closed, and the Embassy in Ankara advised American citizens in Istanbul to stay home.

Car Bombing in Kirkuk, November 20, 2003: A suicide car bombing in Kirkuk killed 5 persons. The target appeared to be the headquarters of the Patriotic Union of Kurdistan. PUK officials suspected the Ansar al-Islam group, which was said to have sheltered fugitive Taliban and al-Qaeda members after the U.S. campaign in Afghanistan.

Attacks on Other Coalition Personnel in Iraq, November 29–30, 2003: Iraqi insurgents stepped up attacks on nationals of other members of the Coalition. On November 29, an ambush in Mahmudiyah killed 7 out of a party of 8 Spanish intelligence officers. Iraqi insurgents also killed two Japanese diplomats near Tikrit. On November 30, another ambush near Tikrit killed two South Korean electrical workers and wounded two more. A Colombian employee of Kellogg Brown & Root was killed and two were wounded in an ambush near Balad.

Train Bombing in Southern Russia, December 5, 2003: A suicide bomb attack killed 42 persons and wounded 150 aboard a Russian commuter train in the south Russian town of Yessentuki. Russian officials suspected Chechen rebels; President Putin said the attack was meant to disrupt legislative elections. Chechen rebel leader Aslan Maskhadov denied any involvement.

Suicide Bombing in Moscow, December 9, 2003: A female suicide bomber killed 5 other persons and wounded 14 outside Moscow's National Hotel. She was said to be looking for the State Duma.

Suicide Car Bombings in Iraq, December 15, 2003: Two days after the capture of Saddam Hussein, there were two suicide car bomb attacks on Iraqi police stations. One at Husainiyah killed 8 persons and wounded 20. The other, at Ameriyah, wounded 7 Iraqi police. Guards repelled a second vehicle.

Office Bombing in Baghdad, December 19, 2003: A bomb destroyed the Baghdad office of the Supreme Council of the Islamic Revolution in Iraq, killing a woman and wounding at least 7 other persons.

Suicide Car Bombing in Irbil, December 24, 2003: A suicide car bomb attack on the Kurdish Interior Ministry in Irbil, Iraq, killed 5 persons and wounded 101.

Attempted Assassination in Rawalpindi, December 25, 2003: Two suicide truck bombers killed 14 persons as President Musharraf's motorcade passed through Rawalpindi, Pakistan. An earlier attempt on December 14 caused no casualties. Pakistani officials suspected Afghan and Kashmiri militants. On January 6, 2004, Pakistani authorities announced the arrest of 6 suspects who were said to be members of Jaish-e-Muhammad.

Suicide Bombing in Israel, December 25, 2003: A Palestinian suicide bomber killed 4 persons at a bus stop near Petah Tikva, Israel. The Popular Front for the Liberation of Palestine claimed responsibility for the attack in retaliation for Israeli military operations in Nablus that had begun two days earlier.

Restaurant Bombing in Baghdad, December 31, 2003: A car bomb explosion outside Baghdad's Nabil Restaurant killed 8 persons and wounded 35. The wounded included 3 Los Angeles Times reporters and 3 local employees.

Mr. DODD. I know the Senate would like to vote quickly and I am prepared

to do so. I thank the Senator for his patience and indulgence.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I appreciate the concern of the Senator from Connecticut and I know he is working hard in this area, but the response to this amendment is not bureaucratic. The response to this amendment focuses on the fact that this bill, and our efforts as a Nation, must be threat based as we address terrorism.

I was interested today in a quote from Mayor Bloomberg in one of the New York papers. He essentially said if a professional terrorist, whose purpose it was to kill Americans indiscriminately, wishes to attack the transit systems of New York, it is virtually impossible to stop that individual at the site of the attack.

Where do you stop that individual? You stop him by obtaining the intelligence necessary to interdict him before he can attack us. The energy we in this Nation are putting in the area of fighting terrorism is to do exactly that.

One of the primary reasons we are fighting in Iraq, one of the primary reasons we are fighting in Afghanistan, is in order to develop intelligence which will give us the capacity to stop these individuals. These individuals come from that part of the world. One of the reasons we have Guantanamo Bay is to develop intelligence capability. A significant amount of our intelligence capability coming out of that facility is as a result of taking their prisoners, who are bad actors, people who are fundamentally focused on hurting Americans, and getting information from them in a proper way.

One of the reasons we have the PATRIOT Act is to develop the intelligence we need to interdict an attack.

One of the reasons we do profiling is in order to get the intelligence we need to catch these people before they attack us. This bill addresses intelligence. We have significantly improved or are trying to improve with this bill what is our highest risk relative to the capacity of a terrorist to attack us, which is the porousness of our borders.

And so these funds which are being proposed here, \$16 billion, which literally represents 50 percent of the entire budget of the Homeland Security agency being put into first responder programs when we already have \$7 billion in the pipeline that hasn't been spent yet because the assessments and plans for spending the money haven't been properly prepared, would really be a true misallocation of resources, a true misallocation of resources in our effort to defend ourselves. They simply could not be handled, these types of dollars. The dollars already in the pipeline we have not been able to handle. This bill puts \$4 billion into these accounts, and we know that \$4 billion will not be out the door as quickly as it should. To put \$16 billion on top of

that is a political statement but is not going to have a dramatic impact because the system to handle the dollars is not there and lot of money will be wasted. Taxpayers will find that instead of getting more security, what they are getting is dollars that could have been used more efficiently somewhere else, that will have been drained off, and those dollars should be going into intelligence gathering and protecting our borders and to fighting these wars which we are participating in and making sure our military has adequate support in places such as Afghanistan and Iraq.

Independent of that, the amendment dramatically exceeds the budget and is therefore subject to a point of order, which I have made, and the motion to waive has been made by the Senator from Connecticut, and we will have a vote on it.

So at this time, Mr. President, I ask unanimous consent that at 6:30 this evening the Senate proceed to a series of votes in relation to the following amendments and the motions where pending; further, that no second-degree amendments be in order to any amendments prior to the vote, and that there be 2 minutes equally divided for debate prior to each vote: The first amendment will be the Dodd amendment, a motion to waive the budget point of order, and the second amendment would be Akaka amendment No. 1112, and on that amendment there will also be a point of order and I presume the vote will be on the motion to waive the point of order since that amendment also significantly exceeds the budget allocation of this committee.

The PRESIDING OFFICER (Mr. COLEMAN). Is there an objection? Without objection, it is so ordered.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1112, AS MODIFIED

Mr. GREGG. Mr. President, I ask that the pending amendment be set aside and the amendment No. 1112 of Senator AKAKA be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I raise a point of order under section 302(f) of the Congressional Budget Act that the amendment by Senator AKAKA provides spending in excess of the subcommittee allocation under section 302(b).

I am sorry, I reserve that motion and I guess Senator AKAKA is going to send a modification to the desk.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I reply to the chairman it does not affect the

content of the amendment. I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Does the Senator from Hawaii wish to send a modification to the desk?

Without objection, the modification is accepted.

The amendment (No. 1112), as modified, is as follows:

On page 77, line 18, strike "\$2,694,300,000" and insert "\$3,181,300,000".

On page 77, line 20, strike "\$1,518,000,000" and insert "\$1,985,000,000".

On page 79, line 21, strike "\$321,300,000" and insert "\$341,300,000".

Mr. GREGG. Mr. President, at this point I raise a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation.

Mr. AKAKA. Mr. President, in accordance with section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The yeas and nays are ordered.

Mr. GREGG. It is my understanding that we will now have a vote on Senator DODD's amendment, on the motion to waive the Budget Act, followed by a vote on Senator AKAKA's motion to waive the Budget Act. I should inform Members that we actually are going to have three other votes following those two votes as soon as we line them up. The first vote will begin at 6:30.

I think Senator AKAKA wanted time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I thank the Chair.

Mr. President, I ask unanimous consent that Senator SARBANES be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to speak briefly on my first responder amendment to the Homeland Security appropriations bill.

The distinguished chairman of the Homeland Security Subcommittee has cited \$7 billion in unspent first responder grants as justification for reducing first responder funding in fiscal year 2006. I wish to take a moment to respond to the statement. First, much of the \$7 billion figure has been legally obligated for specific purposes or in some cases even already spent. As the DHS inspector general observed in a March 2004 report on the distribution of first responder grants, the amount of funds drawn down by States provide an incomplete picture of the progress States and local jurisdictions are making. A more accurate way to monitor progress would be to identify the amount of funds obligated and spent by the State and local jurisdictions.

Following this approach and looking at data received from DHS, virtually all the money that has been awarded to

States in prior years under the three main homeland security first responder grant programs has been obligated.

Second, the \$7 billion includes fiscal year 2005 grant funds which were only made available to States by DHS very recently and could not reasonably be expected to have already been spent in the middle of the same fiscal year.

We should not punish first responders for bureaucratic procedures and red-tape. Our country cannot afford to take resources away from its first responders at a time when we rely on them more than ever.

Mr. President, I urge support of our amendment. I have asked for the yeas and nays. I yield back my time.

Mr. LIEBERMAN. Mr. President, I rise today to support this amendment to the fiscal year 2006 Department of Homeland Security appropriations bill to provide additional funding for our first responders and preventers—the men and women who go to work every day to keep our communities safe, and who rush into the face of disaster when it happens.

Last Thursday, the world saw again with the despicable attacks in London that terrorists are still capable of killing innocent civilians. It is yet another wake up call to all of us, and a sign that we cannot let down our guard. We must stay vigilant.

In fact, our intelligence and security experts have been telling us in no uncertain terms that the threat of terrorist attacks right here at home is one we will have to live with for some time to come. CIA Director Porter Goss has said, "It may only be a matter of time" before terrorists strike again within our borders with weapons of mass destruction. And FBI Director Robert Mueller has said our Nation is, "awash in desirable" targets for terrorists.

Given these pronouncements, it is wrong to leave our police, firefighters, and emergency medical workers under-trained and ill-equipped to protect American citizens. We would never consider denying the training and equipment needs of our men and women fighting in Iraq and we should not deny the training and equipment needs of those we rely on to protect us in the war on terror at home.

Yet that is exactly what this spending bill does. It sends the wrong message not only to first responders and the state and local officials struggling to cover the costs of preparing for new threats. It also sends a dangerous message of complacency to the public.

The amendment that Senator AKAKA and I are offering today would boost our first responder spending by \$587 million—to restore three key grants programs to last year's funding levels. Those grant programs are the State Homeland Security Grant Program, the Urban Areas Security Initiative, and the Fire Assistance Grant Program—all of which supply first responders with the training and equipment they need to do their jobs effectively and safely.

Opponents of this amendment will argue that Congress has already appropriated billions of dollars for first responders and preventers since September 11, and that some \$7 billion remains unspent in the pipeline. This is a common misperception.

First, the \$7 billion figure includes fiscal year 2005 grant funds—funds that were only made available to states by DHS very recently and that could not reasonably be expected to have already been spent in the middle of the same fiscal year. Second, the \$7 billion refers to money that has not actually been "drawn down" from the U.S. Treasury. Much of this money, however, has been legally obligated for specific purposes or in some cases even already spent. As DHS's inspector general observed in a March 2004 report on the distribution of first responder grants, "The amounts of funds drawn down by states provide an incomplete picture of the progress states and local jurisdictions are making. A more accurate way to monitor progress would be to identify the amount of funds obligated and spent (outlays) by the states and local jurisdictions."

Following this approach and looking at data we have received from the Department of Homeland Security, it appears that virtually all the money that has been awarded to States in prior years under the three main homeland security first responder grant programs—the State Homeland Security Grant Program, the Urban Area Security Initiative, UASI, and the Law Enforcement Terrorism Prevention Program, has been obligated.

At any rate, the billions we have appropriated over the years still pales by comparison to what most experts—Republican and Democrat—say is needed to adequately prepare our first responders and preventers. In June 2003, a nonpartisan task force chaired by former Republican Senator Warren Rudman reported that—over the next 5 years—we will under fund the needs of critical emergency responders by nearly \$100 billion. And that figure was arrived at based on maintaining 2003 funding levels.

The task force found that, on average, fire departments had enough radios to equip only half the firefighters on a shift, and breathing apparatuses for only one-third. Just 10 percent had the personnel and equipment needed to respond to a building collapse; and police departments did not have the protective gear needed to secure the site of a WMD attack. These dismal numbers may have improved somewhat since 2003, but no one has suggested that our level of preparedness is near where it should be.

On the key issue of first responder communications interoperability—the top priority of State and local homeland security advisors—the task force recommended spending almost \$7 billion over 5 years. And DHS estimates the cost of modernizing first responder communications infrastructure at \$40

billion. No wonder most States have not yet achieved interoperability.

In March, New York's Center for Catastrophe Preparedness and Response reported that emergency medical workers generally lack not only proper equipment but also proper training. And at a Homeland Security and Governmental Affairs Committee hearing in April, we heard disturbing testimony that first responders are often not prepared to respond adequately to accidents at chemical facilities, leaving the American public dangerously exposed, even more so if there is deliberate release caused by terrorists.

I cannot say it often enough: our first responders are on the frontlines of the war on terror here at home, and we must equip and train them to do their jobs safely and effectively. Words of praise are useless. They need dollars—dollars to help train and equip State and local police, firefighters, and emergency medical technicians to help detect or disrupt terrorist activity before an attack occurs or to save as many lives as possible and contain the damage if an attack occurs.

This amendment is a modest proposal—\$587 million—and it seeks primarily to halt to downward trend in funding for our Nation's first responders, and important, and I hope achievable goal. Last year, we spent more on Mars exploration. I have consistently advocated that we spend much more to make sure that first responders have the training and equipment they need to keep the American people safe. For example, earlier this year, I proposed to the Budget and Appropriations Committees that we spend \$4.2 billion more for first responders and preventers, consistent with the advice of experts who have told us that we need to invest billions more to secure our Nation.

Yet this appropriations bill reflects, once again, an ill-advised administration strategy to reduce funding for first responders for the second year in a row. This is no time to retreat. I urge my colleagues to support this modest but urgent effort to meet our homeland security needs.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I appreciate the work of the Senator from Hawaii. He is always a very positive and effective spokesperson in the Senate for a variety of different issues. He brings this amendment forward. The simple fact is that you can't disregard the fact that there is \$7 billion in the pipeline for first responders—\$3 billion from the year 2004, \$4 billion from 2005—that hasn't been spent. This bill puts another \$4 billion into these accounts, so we are not shorting these accounts. One of the reasons the Senate has offered this bill is it takes money from first responders that is not going to be spent in a timely manner, moves it over to Border Patrol where we do need the money, moves it over to weapons of mass destruction where we do

need the money, and that is the priority we set as a committee, in a bipartisan way, because this has been, as I mentioned a number of times, a threat-based bill. This is the first time this bill has been brought forth recently, or ever, really, based on threat, and we determined the threat was weapons of mass destruction and border porousness. The fact there were \$7 billion in the pipeline, retaining \$4 billion in this account we felt was an adequate amount to fund those accounts for first responders, knowing that down the road we are going to put more money into first responders as it can be absorbed. But to put more in now would mean just holding it, and that money can be much more efficiently used as we propose to use it by adding more Border Patrol agents and detention beds, and more aggressive attempts to fight the use of a weapon of mass destruction against us. So that is why we are opposed to this approach.

Clearly, it breaks the allocation which we have received. Therefore, it would add \$587 million to the deficit, which would also be inappropriate, and that is why the point of order lies against it and that is why we oppose it at this point.

I understand we are now on a minute equally divided on the Dodd amendment.

The PRESIDING OFFICER. The understanding is 2 minutes equally divided.

Mr. DODD. The chairman is very gracious. He has probably worn out his patience on this amendment.

This amendment is an extraordinary amendment. I fully understand that. I believe the events, particularly over the last week, have highlighted the extraordinary times we are in and the challenges we face.

The bulk of the \$16 billion is not to first responders but to harbors, port and chemical plants where there is great vulnerability today.

Recently, I was in Seville, Spain, attending a conference. I rode the train from Seville to Madrid and arrived in the same station where the attacks occurred in March of 2004. My luggage, when I got on the train in Seville to go to Madrid, was quickly checked through a scanning system. We have nothing like that.

I am not suggesting had something like that existed in London the problem could have been avoided. I know terrorists might have used another means to attack as they did that day, but it minimizes the possibility.

The vulnerabilities we have in our country today in the areas I have described demand attention. With all due respect, this bill is a reduction in funding for these areas, not an increase. We ought to be doing more. This amendment is a large amount, but to do less would be a tragedy. I hope the waiver will be adopted.

Mr. GREGG. This is \$16 billion, \$16 billion into an account where there presently is sitting \$7 billion in the bank.

We as a nation obviously have a lot of vulnerabilities because we are an open society. I wish we could cover them all. But the simple fact is there is not enough money to cover them all. We need to prioritize. This bill does that. This amendment basically flies in the face of good utilization of the dollars because we simply could not spend these types of dollars if they were appropriated effectively. They may get spent but not effectively, in our opinion.

It is much more appropriate to look at addressing weapons of mass destruction, border patrol, airline security, and to make sure we have in place the proper systems in order to protect the homeland through these assessment programs which are going forward before we put a large amount of money—\$16 billion, which would be half the budget of the Homeland Security agency—into new spending initiatives or additional spending initiatives, the \$4 billion in the bill and the \$7 billion in the pipeline.

The point of order has been made. This is a motion to waive it. This amendment would add \$16 billion to the deficit. We do not think it would accomplish what its purpose is.

The PRESIDING OFFICER. Under the previous order, the question is now agreeing to the motion to waive the Budget Act with respect to Dodd amendment No. 1202, as modified. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. LOTT), and the Senator from South Dakota (Mr. THUNE).

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The PRESIDING OFFICER (Mr. DEMINT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 177 Leg.]

#### YEAS—36

Akaka	Feinstein	Lincoln
Bayh	Harkin	Murray
Biden	Inouye	Obama
Boxer	Jeffords	Pryor
Byrd	Johnson	Reed
Cantwell	Kennedy	Reid
Clinton	Kerry	Rockefeller
Corzine	Kohl	Salazar
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Durbin	Levin	Stabenow
Feingold	Lieberman	Wyden

#### NAYS—60

Alexander	Burr	Craig
Allard	Carper	Crapo
Allen	Chafee	DeMint
Baucus	Chambliss	DeWine
Bennett	Coburn	Dole
Bingaman	Cochran	Domenici
Bond	Coleman	Dorgan
Brownback	Collins	Ensign
Bunning	Conrad	Enzi
Burns	Cornyn	Frist

Graham	Martinez	Smith
Grassley	McCain	Snowe
Gregg	McConnell	Specter
Hagel	Murkowski	Stevens
Hatch	Nelson (FL)	Sununu
Hutchison	Nelson (NE)	Talent
Inhofe	Roberts	Thomas
Isakson	Santorum	Vitter
Kyl	Sessions	Voinovich
Lugar	Shelby	Warner

#### NOT VOTING—4

Landrieu	Mikulski
Lott	Thune

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, let me take a moment and update everybody on the schedule. We are going to have one additional vote scheduled this evening. We will be starting that momentarily. We have 14 additional amendments pending at this time. We should be able to lock in a voting sequence for tomorrow morning, and thus we will have one more vote tonight, and then we will have a series of stacked votes beginning tomorrow morning at 10 a.m. As we have said again and again, we will be completing the bill this week, and we can complete the bill late tomorrow night but, if necessary, we would go into Friday. But we will finish the bill this week.

Senators should be prepared to stay late tomorrow night. We will have one more vote starting shortly, and we will start stacked votes at 10 in the morning. We will work straight through tomorrow, hopefully finish tomorrow night. We will be in on Friday as well, but I think we can finish this bill tomorrow night.

#### AMENDMENT NO. 1112, AS MODIFIED

The PRESIDING OFFICER. There are now 2 minutes of debate equally divided on the Akaka amendment. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, we have been very concerned about first responders and funding they really need. My amendment simply seeks to maintain the fiscal year 2005 funding for first responders. Our country cannot afford to take the resources away from them. I urge support of the amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment adds \$587 million in new spending to first responder grants, above the levels provided already in the bill. There is no offset. The bill already provides \$3.4 billion for first responder grants. In addition, there is nearly \$7 billion previously appropriated that State and locals have available to spend at this time for first responders. The funding pipeline is full of money. This amendment will cause the subcommittee to exceed its 302(b) allocation. The Budget Act point of order should be sustained.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to waive the Budget Act with respect to the Akaka amendment No. 1112, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 178 Leg.]

#### YEAS—42

Akaka	Durbin	Lincoln
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Jeffords	Pryor
Byrd	Johnson	Reed
Cantwell	Kennedy	Reid
Carper	Kerry	Rockefeller
Clinton	Kohl	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

#### NAYS—55

Alexander	DeMint	McConnell
Allard	DeWine	Murkowski
Allen	Dole	Roberts
Bennett	Domenici	Santorum
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Frist	Smith
Burns	Graham	Snowe
Burr	Grassley	Specter
Chafee	Gregg	Stevens
Chambliss	Hagel	Sununu
Coburn	Hatch	Talent
Cochran	Hutchison	Thomas
Coleman	Inhofe	Thune
Collins	Isakson	Vitter
Conrad	Kyl	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	
Crapo	McCain	

#### NOT VOTING—3

Landrieu	Lott	Mikulski
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The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from New Hampshire.

#### AMENDMENT NO. 1172

Mr. GREGG. Mr. President, at this time I call up amendment No. 1172 on behalf of Senator THOMAS and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. THOMAS, proposes an amendment numbered 1172.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize and direct the Secretary of Homeland Security to designate Natrona County International Airport, Wyoming, as an airport at which certain private aircraft arriving in the United States from a foreign area may land for processing by the United States Customs and Border Protection, and for other purposes)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall designate the Natrona International Airport in Casper, Wyoming, as an airport at which private aircraft described in subsection (b) may land for processing by the United States Customs and Border Protection in accordance with section 122.24(b) of title 19, Code of Federal Regulations, and such airport shall not be treated as a user fee airport for purposes of section 122.15 of title 19, Code of Federal Regulations.

(b) PRIVATE AIRCRAFT.—Private aircraft described in this subsection are private aircraft that—

(1) arrive in the United States from a foreign area and have a final destination in the United States of Natrona International Airport in Casper, Wyoming; and

(2) would otherwise be required to land for processing by the United States Customs and Border Protection at an airport listed in section 122.24(b) of title 19, Code of Federal Regulations, in accordance with such section.

(c) DEFINITION.—In this section, the term “private aircraft” has the meaning given such term in section 122.23(a)(1) of title 19, Code of Federal Regulations.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1172) was agreed to.

#### AMENDMENT NO. 1173, AS MODIFIED

Mr. GREGG. Mr. President, I call up amendment No. 1173 on behalf of Senator HUTCHISON, and I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mrs. HUTCHISON, proposes an amendment numbered 1173, as modified.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding coordination with the American Red Cross)

On page 100, between lines 11 and 12, insert the following:

SEC. 519. It is the sense of the Senate that the Federal Emergency Management Agency or any other organization within the Department of Homeland Security should continue to coordinate with the American Red Cross in developing a mass care plan for the United States in response to a catastrophic event.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment, as modified be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1173), as modified, was agreed to.

#### AMENDMENT NO. 1171, AS MODIFIED

Mr. GREGG. Mr. President, I ask for the regular order on Senator MCCAIN's amendment No. 1171, as modified.

The PRESIDING OFFICER. The amendment is now pending.

#### AMENDMENT NO. 1221 TO AMENDMENT NO. 1171, AS MODIFIED

Mr. GREGG. Mr. President, I send a second-degree amendment on behalf of Senator HATCH to Senator MCCAIN's amendment No. 1171.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. HATCH, proposes an amendment numbered 1221 to amendment No. 1171, as modified.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the source of funds allocated under amendment No. 1171 to H.R. 2360)

(A) On line 3, page 2, strike “.” and insert “;”.

(B) Add at the end, “provided that the balance shall be allocated from the funds available to the Secretary of Homeland Security for States, urban areas, or regions based on risks; threats; vulnerabilities pursuant to Homeland Security Presidential Directive 8 (HSPD-8).”

Mr. GREGG. Mr. President, I ask unanimous consent that the second-degree amendment offered by Senator HATCH be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1221) was agreed to.

Mr. GREGG. Mr. President, I ask unanimous consent that at 10 a.m. tomorrow, the Senate proceed to a series of votes in relation to the following amendments or motions where pending; further, that no second-degree amendments be in order to any of the amendments prior to the votes, and that there be 2 minutes equally divided for debate prior to each vote; finally, that the first vote in the series be 15 minutes, with the remaining votes in the series limited to 10 minutes each. The first amendment will be Senators ENSIGN and MCCAIN second-degree amendment No. 1219; the second amendment will be Senator SCHUMER's amendment No. 1189; third will be Senator SCHUMER's amendment No. 1190; fourth will be Senator MCCAIN's amendment No. 1171, as modified, as amended by the Hatch amendment; and fifth will be Senator STABENOW's amendment No. 1217.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.



Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1161

Mr. REID. Mr. President, I call up amendment No. 1161, which is at the desk. I wish to have it reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. BIDEN, and Mr. KENNEDY, proposes an amendment numbered 1161.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on the submittal to Congress of a report on performance indicators on Iraq)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) FINDINGS.—The Senate makes the following findings:

(1) The Joint Explanatory Statement to accompany the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 1090913) requires the Department of Defense to set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(2) The report requires performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(3) In specific, the report required, at a minimum, the following:

(A) With respect to stability and security in Iraq, the following:

(i) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(ii) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(iii) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(iv) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(v) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(I) unemployment levels;

(II) electricity, water, and oil production rates; and

(III) hunger and poverty levels.

(vi) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(B) With respect to the training and performance of security forces in Iraq, the following:

(i) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(ii) Key criteria for assessing the capabilities and readiness of the Iraqi military and

other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(iii) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(I) capable of conducting counter-insurgency operations independently;

(II) capable of conducting counter-insurgency operations with the support of United States or coalition forces; or

(III) not ready to conduct counter-insurgency operations.

(iv) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(v) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(vi) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(I) the number of police recruits that have received classroom training and the duration of such instruction;

(II) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(III) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(IV) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(V) attrition rates and measures of absenteeism and infiltration by insurgents.

(vii) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(viii) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(ix) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(x) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

(3) The deadline for submittal of the report to Congress was 60 days after the date of the enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, that is July 11, 2005, and every 90 days thereafter through the end of fiscal year 2006.

(4) The report has not yet been received by Congress.

(5) The availability of accurate data on key performance indicators is critical to understanding whether the United States strategy in Iraq is succeeding, and the substantial resources provided by Congress, which total more than \$200,000,000,000 and an approximate monthly expenditure of \$5,000,000,000, with substantial resource expenditures still to come, are being utilized effectively.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the information requested in the report described by subsection (a) is critical—

(A) to fulfilling the oversight obligations of Congress;

(B) to ensuring the success of United States strategy in Iraq;

(C) to maximizing the effectiveness of the substantial resources provided by Congress and the American people for United States efforts in Iraq;

(D) to identifying when the Iraqi security forces will be able to assume responsibility for security in Iraq; and

(E) to obtaining an estimate of the level of United States troops that will be necessary in Iraq during 2005 and 2006, and in any years thereafter;

(2) the report should be provided by the Department of Defense, as required by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 as soon as possible; and

(3) the Secretary of Defense should communicate to Congress and the American people why the report was not submitted to Congress by the original deadline for its submittal.

Mr. REID. Mr. President, in the 2005 Iraq Emergency Supplemental Appropriations bill, the House and Senate conferees agreed to an extensive set of Defense Department reporting and benchmarking requirements on Iraq that addressed the security, economic, reconstruction, and governance areas.

This report was due on July 11, and has yet to be provided to Congress.

This amendment conveys the Sense of the Senate that this information is critical to formulating a strategy for success and that the report should be delivered to Congress as soon as possible.

Over the last few weeks, the American people have been assured by the administration that they have a strategy for success in Iraq.

Unfortunately, too often the rhetorical excesses of senior administration officials have left an impression with the American people of a credibility gap.

Overly optimistic statements such as that by the Vice President that the insurgency is in its ‘last throes’ have not matched what real experts, including the administration’s own intelligence analysts and senior military officers, have said about the challenges ahead.

With all this obfuscation, the American people are right to be concerned and right to demand that the administration report more cold, hard facts about Iraq on a regular basis.

As the administration asks Congress for billions more in funding for the Iraq war in coming months, on top of the more than \$218 billion we have provided so far, the American people are entitled to information measuring whether those resources are having an impact and moving the ball forward in Iraq.

Let me remind my colleagues that this is important not just for our debate about Iraq but for our debate about other priorities such as homeland security. We spend more on Iraq in a month than we spend on first responders in an entire year. Since 9/11, we have spent \$500 million on mass transit security—an amount that we

spend every 3 days in our operations in Iraq. This puts a premium on ensuring the taxpayers' money is being well spent.

We won't know whether our strategy in Iraq is making true progress until real report cards start coming in.

The amendment is a reminder that the first of these report cards from the administration was due this past Monday, and that the representatives of the people in Congress are waiting.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, what is the amendment now pending in the Senate?

The PRESIDING OFFICER. Amendment No. 1161 offered by the Democratic leader.

Mr. REID. I ask that the Senate act on the amendment at this time.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1161.

The amendment (No. 1161) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1075

Mr. GREGG. Mr. President, I ask for the regular order with respect to amendment No. 1075. It is Senator VOINOVICH's amendment.

The PRESIDING OFFICER. The amendment is pending.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1075) was agreed to.

#### AMENDMENT NO. 1151

Mr. GREGG. Mr. President, I ask for the regular order with respect to McCain amendment No. 1151.

The PRESIDING OFFICER. The amendment is now pending.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1151) was agreed to.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SENATE FIRST QUARTER ACCOMPLISHMENTS

Mr. MCCONNELL. Madam President, as we return from the celebrations marking our Nation's Independence Day, we should take a moment to mark the accomplishments of this Senate as we conclude the first quarter of the 109th Session of the U.S. Congress.

The list of accomplishments is impressive.

Judges to our circuit courts of appeals, stalled for years, now sit on the bench. Key legislative initiatives, once left to languish, are now the law of the land or on the brink of completion.

Class action reform protects plaintiffs from abusive coupon settlements while it prevents lawyers from gaming the system.

It had been delayed for at least a decade despite strong public support and legislative majorities. Now it has been signed into law by President Bush.

So too was a bankruptcy reform bill that ushers in a new emphasis on personal responsibility. It is another reform of our civil justice system that was long delayed, despite broad support.

We met our responsibilities to defend freedom, and the challenges of continuing to wage war on terrorism, with an emergency funding bill for Iraq.

We responded to the heart-breaking human cry for help by funding international relief efforts for victims of the Southeast Asia tsunami.

The budget resolution, which sets the vision of this nation, was completed and now permits smooth consideration of appropriations bills, tax relief measures, the highway bill, the energy bill and numerous other initiatives.

After failures to enact a budget in two of the last three sessions, getting this one in place means we are on course to meeting the President's goal of cutting the deficit in half while funding our important priorities of health, education, veterans, and homeland security.

When we've found that our budget needed to be adjusted to meet the medical needs of veterans, we voted to make the adjustments to ensure veterans have the health care they need this year as well as next.

We now are poised to soon enact a highway bill that will help Americans get where they need to go more quickly and safely, and will help create jobs within our States as well.

We are going to conference now on an Energy bill that will help reduce our national dependence on foreign sources of oil and prevent blackouts like the

one that hit the Northeast United States in 2003.

We made the homeland safer by passing the Real ID provision. These provisions tighten our borders, reform our asylum system, and safeguard our identity documents so that terrorists cannot use them to avoid detection.

We've broken the unprecedented three-year filibuster of President Bush's judicial nominees who finally received up-or-down votes. Now, Judges Owen, Pryor, Brown, Griffith, McKeague, and Griffin have each taken their oaths and assumed the Federal appellate bench.

Most recently, the Senate has expanded the benefits of free trade, economic opportunity, and political stability to new regions of our own hemisphere with Senate passage of the Central American Free Trade Agreement.

We've made a good down payment on the appropriations process by passing the Interior, Legislative Branch, and Energy and Water.

And finally, this week we have paid our respects and expressed our condolences to the victims of the London terrorist bombings, and are proceeding to work on funding our own homeland security needs.

Freedom never had a greater ally than the valiant United Kingdom, and the United Kingdom will never have a greater friend than America. Our prayers are with that great nation today.

That is an incredible body of achievement in just six months. Where once there was inaction, we can now boast of accomplishment. We have done what the American people sent us here to do.

I hope everyone enjoyed the Fourth of July weekend and paused for a moment to celebrate the fact behind those fireworks—that government of, for, and by the people can work, and that the accomplishments of this Senate show that it does work.

### ETHIOPIA

Mr. MCCONNELL. Mr. President, today I rise to express concern about recent events in Ethiopia. On May 15, 2005, 90 percent of registered Ethiopian voters went to the polls in the country's third election under its current constitution. Unfortunately, this historic election was marred by a disputed outcome. Because of the controversy over the election, civil unrest ensued. In responding to protests by opposition parties, the Government of Ethiopia acted with excessive force, killing 36 protestors and arresting large numbers of demonstrators.

Final results of the May election were due to be completed by the National Electoral Board first by June 8, then by July 8, and are still ongoing. Interim certified results from the Electoral Board indicate that approximately 40 percent of the vote is either still under investigation or in need of review, with one region of the country still to cast its ballots.

Let me be crystal clear that the Government of Ethiopia must respect the

neutrality of the Electoral Board and permit it to go about its work in a fair and impartial manner. I also call upon Kemal Bedri Kelo, chairman of the Electoral Board, to conduct the board's proceedings in a transparent, fair and evenhanded fashion in order to ensure that the board's ultimate decision is respected by all sides.

Ethiopia is an ally of the United States. But that friendship could be strained by failure of the Ethiopian Government to observe international norms in its elections, failure by the Government to abide by the rule of law or failure by opposition groups to avoid overheated rhetoric. As chairman of the State/Foreign Operations subcommittee, I will be keeping a close eye on events in Ethiopia as they continue to unfold.

#### CLERGY SEXUAL ABUSE

Mr. KENNEDY. Mr. President, RICK SANTORUM owes an immediate apology to the tragic and long-suffering victims of sexual abuse and their families in Boston, Massachusetts, in Pennsylvania, and around the country. His outrageous and offensive comments which he had the indecency to repeat yesterday blamed the people of Boston for the depraved behavior of sick individuals who stole the innocence of children in the most horrible way imaginable.

Senator SANTORUM has shown a deep and callous insensitivity to the victims and their suffering in an apparent attempt to score political points with some of the most extreme members of the fringe rightwing of his party. Boston bashing might be in vogue with some Republicans, but RICK SANTORUM's statements are beyond the pale.

Three years ago, Senator SANTORUM said:

While it is no excuse for this scandal, it is no surprise that Boston, a seat of academic, political and cultural liberalism in America, lies at the center of the storm.

When given an opportunity yesterday to apologize, he refused and instead restated these outrageous statements. The people of Boston are to be blamed for the clergy sexual abuse? That is an irresponsible, insensitive, and inexcusable thing to say. RICK SANTORUM should join all Americans in celebrating the accomplishments of the people of Boston. Apparently Senator SANTORUM has never heard of the enormous contributions of our universities and industries to our quality of life, our economic strength, and our national security.

Harvard and MIT have produced 98 Nobel laureates whose work has made an enormous difference in America's strength. Their graduates contribute to industries, Government, their communities, our Nation, and throughout the world. In fact, only a quarter of MIT graduates remain in New England. Their research keeps our Nation secure.

The Pentagon and the CIA, the military, the Energy Department, the Veterans Administration—all turn to MIT and Harvard for technology and strategies to protect our Nation from those who would hurt us, and their research in cancer, children's health, housing, community development, so many other issues, continues to make an enormous difference to the well-being and the health of our children and families.

More than a dozen current U.S. Senators were educated in Boston.

Senator FRIST was trained as a heart surgeon at Harvard Medical School. Senator DOLE went to Harvard Law School. Senator ALEXANDER went to Harvard's School of Government. Surely my memorable colleagues would not go to a school that is somehow contributing to the downfall of America. No, Mr. President, they went to a worldwide leading institution to prepare them for incredible careers of service and leadership.

Senator SANTORUM's self-righteousness also fails to take into account the enormous amount of good will the people of Boston demonstrate for the less fortunate. They started the Massachusetts Children's Hunger Initiative, working with leaders in 20 low-income communities to end hunger among children.

Boston's Children's Hospital has been ranked first in the Nation in the past decade for care and concern of sick children.

The quality of life for Boston and its families is rated third in America. Massachusetts has the lowest divorce rate in the Nation.

Massachusetts ranks in the top 10 States in the Nation when it comes to addressing the needs of at-risk or vulnerable children, including our efforts to address low birth weight babies, teen homicides and other challenges to our children. Pennsylvania doesn't even rank in the top 10.

Boston gave birth to America's liberty, and the values that sparked our revolution continue to inspire Bostonians today—love of freedom, dedication to country, and concern for our fellow citizens.

The men and women of Boston have served honorably in our Armed Forces. They fought and died for our country so that their children might live in freedom and opportunity.

The abuse of children is a horrible perversion and a tragic crime, and I am proud that the good people of Boston and Massachusetts were leaders in coming forward, shedding light, and demanding accountability for this devastating violation of children.

Sadly, the sexual abuse of children is a problem throughout the world, and it is not confined in any way to members of the clergy or to one town or one city. Every State in the country has reported child sexual abuse, including Pennsylvania.

On behalf of all the victims of abuse and the people of Boston and Massa-

chusetts, I ask that he retract his unfounded statements and apologize. I think the families of Massachusetts were hurt just as much by this terrible tragedy as the families of Pennsylvania. Abuse against children is not a liberal or conservative issue. It is a horrific, unspeakable tragedy. Sadly, it happens in every State of this great Nation—in red States and blue States, in the North and South, in big cities and in small. The victims of child sexual abuse have suffered enough already, and Senator SANTORUM should stop making a bad and very tragic situation worse.

#### JUDICIAL PHILOSOPHY OF SUPREME COURT NOMINEES

Mr. KENNEDY. Mr. President, President Bush and Members of the Senate will soon have the duty of appointing a new justice to the Supreme Court. In recent days, there have been differences of opinion over whether we should consider the judicial philosophy of nominees to the Supreme Court as part of the appointment process. I hope the President's remarks yesterday make clear once and for all that judicial philosophy is an important part of a nominee's qualifications. President Bush said that judicial philosophy would be one of the criteria he used to choose a nominee, along with character, integrity, and the ability to do the job.

I agree with President Bush that these qualities—including judicial philosophy—are important to whether a nominee is fit to serve on the Court. Many times in recent months, and during his campaign for re-election, President Bush has said that nominees to the Federal courts must interpret the law, not make the law. He has said that we should appoint persons who would not try to legislate from the bench. This view has been echoed by Members of the Senate, both Republican and Democrat, myself included. Senators of both parties agree with the President that we should not appoint judicial activists who would decide cases based on personal ideology rather than the law.

The only way to know whether nominees have an activist judicial philosophy is to find out what their judicial philosophy is. That's the only way to know whether nominees will follow the law or attempt to rewrite it. We certainly can't tell judicial philosophy from nominees' resumes, where they went to school, or where they worked. These issues are relevant and should be considered as part of a nominee's qualifications for the Supreme Court. But a resume is no substitute for answering questions about whether the nominee respects the basic rights and freedoms on which the nation was founded.

The American people deserve to know if a nominee would favor corporate or other special interests, rather than giving everyone the same fair hearing in deciding cases. They deserve

to know whether nominees would respect the Constitutional power of Congress to enact environmental protections or if nominees are so opposed to such protections that they would bend or distort the law to strike them down.

The American people deserve to know whether nominees would roll back civil rights laws or uphold the rights of the disabled, the elderly, and minorities. The American people are entitled to know if a nominee respects women's rights to equal treatment in our society and to privacy in making reproductive decisions.

This does not mean every nominee should promise to rule a particular way in each of the cases on the Supreme Court's docket for the next term. It doesn't mean that nominees must state how they would rule in any specific case. But it does mean that the Senate should expect the nominee to answer questions about important legal principles—such as the constitutional power of Congress to protect Americans against corporate abuses, the right to equal treatment, Americans' right to privacy in making personal decisions about medical care, the principle of non-discrimination, and the right to be free from unwarranted government intrusion.

The American people deserve to know the answers to those questions, and the Senate's review is the only way that they can get those answers. The nominee will need to say more than "trust me" in response to these important questions, because so much hangs in the balance.

The importance of judicial philosophy in deciding whether to confirm a Supreme Court justice is nothing new. During the first 100 years after ratification of the Constitution, 21 of 81 Supreme Court nominations—one out of four—were rejected, withdrawn, or not acted on.

Since 1968, a third of all Supreme Court nominations have failed. During these confirmation debates, ideology often mattered. John Rutledge, nominated by George Washington, failed to win confirmation as Chief Justice in 1795, when Alexander Hamilton and other Federalists opposed him because of his position on the Jay Treaty.

In 1811, James Madison's nominee, Alexander Wolcott, was defeated because of his enforcement of the embargo and other trade laws opposed by Federalists in the Senate.

A nominee of President Polk was rejected because of his anti-immigration position. A nominee of President Hoover was not confirmed because of his anti-labor view. The Senate failed to elevate Justice Abe Fortas to Chief Justice in 1968, when Senate Republicans filibustered his nomination because they objected to his decisions on free speech and defendants' rights.

Chief Justice Rehnquist himself has stated that it is appropriate for the Senate to ask about a Supreme Court nominee's judicial philosophy, stating that this "has always seemed . . . en-

tirely consistent with our [C]onstitution and serves as a way of reconciling judicial independence with majority rule."

As our colleague from Mississippi, Senator TRENT LOTT, stated in 1996, "[w]e should look not only at their education, background, and qualifications, but also . . . what is their philosophy with regard to the judiciary and how they may be ruling." In Senator LOTT's words, "if we do not ask questions, then we will be shirking our responsibilities."

Earlier this month, the Senator from Texas, Senator CORNYN, stated that while nominees should not be asked to promise how they will vote in a specific case, "it's an appropriate question to ask what their views are on cases that have been decided and judicial opinions that have been written."

We should all agree that it's appropriate for the Senate to ask nominees about the issues most important to Americans. The American people expect and deserve to learn about a nominee's legal philosophy during the hearings on any Supreme Court nominee. We should do all we can to see that the process provides clear answers, so that the American people will have full confidence in the outcome.

#### HONORING OUR ARMED FORCES

IN HONOR OF PRIVATE FIRST CLASS ERIC PAUL WOODS

Mr. NELSON of Nebraska. Mr. President, I rise today to honor PFC Eric Paul Woods of Omaha, NE.

Private First Class Woods served his country with the utmost bravery. A graduate of Urbandale High School in Urbandale, IA, Woods moved to Omaha 5 years ago, joining the Army in April 2004 as a medic with the G Troop, 2nd Squadron of the 3rd Army Cavalry. He was based out of Fort Carson, CO. Seven years earlier, Private First Class Woods met his wife Jamie, also of the Des Moines area. The two were wed a year later on their first anniversary as a couple. On March 8, 2005, Private First Class Woods was deployed for his first tour in Iraq.

On July 9, 2005, Private First Class Woods was killed in action while serving courageously in Iraq. While bravely attempting to save the life of a wounded soldier near Tal Afar, Iraq, he sustained fatal wounds as an improvised explosive device detonated near the side of the road. His courage should be an example to all, as days before he turned down an offer to be moved away from the front lines. His dedication to both his fellow soldiers and his country clearly display both his valor and resolve.

Private First Class Woods is survived by his wife Jamie and his 3-year old son Eric Scott, among numerous other friends, family, and countrymen who proudly honor and remember his sacrifice. I would like to offer my sincere thoughts and prayers to Private First Class Woods' family. His selfless com-

mitment to his country will not be forgotten. Private First Class Woods will be remembered as a man who honored, served, and died for the liberties and freedoms of all Americans and Nebraskans.

PETTY OFFICER 2ND CLASS DANNY P. DIETZ

Mr. SALAZAR. Mr. President, I rise today to commemorate an outstanding Coloradan who made the ultimate sacrifice for all of us: Navy Petty Officer 2nd Class Danny Philip Dietz, Jr.

Petty Officer Dietz was a native of Littleton, CO, and was a member of the Navy's elite fighting force, the SEALs. He was killed in Afghanistan after an unsuccessful rescue attempt. He was just 25 years old about to embark on his fifth year of service to our Nation.

Petty Officer Dietz, D.J. to his friends and family, joined the Navy in 1999 after graduating Heritage High School where he played football. Serving his country as a Navy SEAL was Petty Officer Dietz's dream. He spent his spare time in high school swimming and building his strength to make him a better candidate for this elite program. He spent years in training to become part of a specialized SEAL reconnaissance team.

In doing so, Danny Dietz took his first step toward becoming a hero for America.

When Petty Officer Dietz left for his most recent deployment in April out of Virginia Beach, just a few hours from where we are tonight, he told his wife that he was going to do something special for his Nation. He did for all of us, including one of his fellow soldiers who was rescued from those Afghan mountains, where Petty Officer Dietz was lost to us.

Matthew 5:9 teaches us, "Blessed are the peacemakers, for they shall be called sons of God." Petty Officer Dietz brave actions overseas are the kind of heroism of which you should be extraordinarily proud and to which all aspire. Petty Officer Dietz's service to the people of the United States is a gift for which we are all profoundly grateful and will never forget.

Petty Officer 2nd Class Danny Philip Dietz, Jr. served this Nation with extraordinary courage, honor and distinction in fighting for our freedom and liberties. To his wife Maria and his entire family, I can only offer my deepest condolences at your loss. The thoughts and prayers of an entire Nation are with you.

#### MR. GENE MAY, A BUILDER OF HOMES

Mr. BYRD. Mr. President, it is commonly said that a man is known by his work. For half of a century, Mr. Gene May of McLean, VA, was known by the fine homes he built in the Washington area.

Mr. May, who died recently of lung cancer, was a builder and a developer, who made an important and lasting impact on this busy, ever-growing, and highly transient region. He was a good

man, who touched people with his hard work, his dedication to his profession, and the extra care that he put into the structures that he built.

Gene May did not merely build houses; he built homes, and he built more than a thousand of them starting with his first, in 1947. He put a part of himself into each of his endeavors, into each of the homes he built; and as a result, the homes he built reflect his values. Years after he retired, according to the Washington Post, people were still writing to him, praising him for the sturdiness of the homes he had built for them, and thanking him for his superb work.

Yet, according to his daughter, his work was not the most important thing in his life. It wasn't even second. His daughter explained that "the most important thing in his life was his family, followed by his church. And he viewed his work as a way to serve both."

What a wonderful way to regard one's work. What a contribution all of us could make to our families, our society, and ourselves with such an outlook on life, that our work is a way to serve our family and our Creator.

Gene May's philosophy served as an underpinning for a rewarding life. He put family first, and what a wonderful family he had. He was married to his loving wife, Barbara May, for 58 years. They had two children and five grandchildren.

Gene May faithfully served his church. I knew Gene May. He built the house in which I now live. He was a charter member, treasurer, and one of the first deacons of the Church of Christ of Falls church. He supervised the building of two of the church's facilities, and actively participated in the church's mission. In addition, he helped to establish, then served as president of, a christian youth summer camp in Virginia's blue ridge mountains.

Gene May's community involvement extended well beyond his church activities. For example, he was a member of the school board, a board member of the Arlington Trust Bank, and a founder of the Northeastern Junior College in Villanova, PA.

When Mr. May learned that he had terminal cancer a little more than a year ago, he reacted to the news with the calmness and level-headedness that had characterized his life.

He taught his wife how to handle the family finances, even budgeting the money for his funeral expenses. He then signed up for hospice care, so that he would not be a burden to his family; and, he began to prepare himself for the afterlife. How about that? He began to prepare himself for the afterlife. Gene May succumbed to the dreaded disease on May 4 of this year.

This good man, this good neighbor, this good citizen will be missed by his family, his community, and his legion of friends. But through the homes he built for more than a thousand people, the memories of his life and work will

live for years and years to come. He was a builder.

Gene May was a builder in the best and truest meaning of the word.

I saw them tearing a building down,  
A group of men in a busy town.

With a "ho, heave, ho" and a lusty yell  
They swung a beam and the sidewall fell.

I said to the foreman, "Are these men skilled?"

The type you would hire if you had to build?"

He laughed, and then he said, "no indeed,  
Just common labor is all I need;  
I can easily wreck in a day or two,  
That which takes builders years to do.

I said to myself as I walked away,

"Which of these roles am I trying to play?"

Am I a builder who works with care,

Building my life by the rule and square?

Am I shaping my deeds by a well-laid plan,

Patiently building the best I can?

Or am I a fellow who walks the town,

Content with the labor of tearing down?"

My wife Erma, and I extend our deepest condolences to Mr. May's wife, Barbara, and their children, and grandchildren.

May his ashes rest in peace.

#### VOTE EXPLANATION

Mr. THUNE. Mr. President, yesterday the Senate, again, acted in a unified bipartisan manner when it voted 95 to 0 to add an additional \$1.5 billion to the Department of Veterans' Affairs. Although a family medical emergency unfortunately prevented me from being able to vote on the Murray amendment, I fully support the measure and would have gladly voted in favor of it. Even though the VA could provide some health care to veterans until fiscal year 2006, it would have to do so by taking funds from other accounts and slashing other projects. This is simply unacceptable.

I am proud the Senate chose to emphasize our position that the VA needs an additional \$1.5 billion to properly carry out its mission of caring for America's veterans.

Thank you Mr. President.

#### TERRORIST BOMBING IN LONDON

Mr. CHAMBLISS. Mr. President, my wife Julianne and I express our deepest sympathies to those who lost loved ones and those injured in the terrorist attacks in London last Thursday. Our thoughts and prayers are with them.

The terrorists who claim allegiance to al-Qaida undertook these atrocious acts in response to the United Kingdom's unflinching, courageous support for the global war on terrorism. Prime Minister Tony Blair and the British people have stood along side the United States and the other members of the coalition in the war on terrorism.

This is a reminder that we must always be vigilant against those who wish to attack our freedom and our way of life. We must not waiver in our resolve to pursue and bring to justice those who commit these heinous crimes

I add my support to Monday's passing of S. Res. 193, which expressed "sympathy for the people of the United Kingdom in the aftermath of the deadly terrorist attacks." At the time of the vote, I was delayed in returning to Washington because of Hurricane Dennis. Had I been in present for that vote, I would have voted in favor of the resolution.

#### LEADERSHIP AND COORDINATION IN LANGUAGE EDUCATION

Mr. AKAKA. Mr. President, I rise today to discuss the foreign language needs of the country, a problem that is receiving renewed public attention because of the ongoing war in Iraq and the impact the lack of language expertise is having on our foreign policy. As John Limbert, president of the American Foreign Service Association, was quoted in the Federal Times last month, the shortage of linguists "makes our mission of representing the American people that much harder."

Frankly, I agree with Mr. Limbert. The stability and economic vitality of the United States and our national security depend on American citizens who are knowledgeable about the world. We need civil servants, area experts, diplomats, business people, educators, and other public officials with the ability to communicate at an advanced level in the languages and understand the cultures of the people with whom they interact. An ongoing commitment to maintaining these relationships and language expertise helps prevent a crisis from occurring and provides diplomatic and language resources when needed.

My own State of Hawaii is a leader in promoting language education and cultural sensitivity. As a gateway to Asian and Pacific nations, we in Hawaii understand the importance of knowing other languages and cultures, which help to develop strong relationships with other people. For example, according to the 2000 Census, more than 300,000 people in Hawaii, or about 27 percent of those 5 years and older, spoke a language other than English at home. This is compared to about 18 percent nationwide. In addition, the University of Hawaii is a leader in teaching Korean and is the host of one of two National Korean Flagship Programs established by the National Security Education Program. Hawaii is also host to the internationally recognized East-West Center, an education and research organization established in Hawaii by Congress in 1960, which is a leader in promoting and strengthening relations between the United States and the countries of the Asia Pacific region.

In 2000 the Senate Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, then chaired by Senator COCHRAN, held a hearing on the foreign language needs of the Federal Government. At that hearing Ellen Laipson,

vice chairman of the National Intelligence Council, testified as to the language shortfalls in the intelligence community and how these shortfalls could impact agency missions, especially in emergency situations. For example, a lack of language skills limits analysts' insight into a foreign culture which restricts their ability to anticipate political instability and warn policymakers about a potential trouble spot. In addition, Ms. Laipson testified that thousands of technical papers providing details on foreign research and development in scientific or technical areas were not being translated because of the lack of personnel to interpret the material, which could lead to the possibility of "a technological surprise."

Understanding the importance of improving our language capabilities, I introduced with Senators DURBIN and THOMPSON the Homeland Security Education Act and the Homeland Security Federal Workforce Act. Our bills proposed a comprehensive strategy to improve language education, as well as science and math education, at the elementary, high school, and college levels and to provide incentives for individuals possessing such skills as a result of these programs to enter Federal service in critical national security positions. The Senate passed the Homeland Security Federal Workforce Act on November 5, 2003, and provisions of the bill were included in the Intelligence Reform Act of 2004. In addition, I successfully added an amendment to the Defense Authorization Act for fiscal year 2005 requiring the Department of Defense to report on how it will address its language shortfalls in both the short and long term. Earlier this year, the Department issued its Defense Language Transformation Roadmap which lays out an ambitious plan for improving the language education of its employees.

While Congress has adopted several provisions to improve language education, including some that I have proposed, it has not been easy to gain a wider acceptance of this need. It has been said that the events of September 11, 2001, were a modern day Sputnik moment, demonstrating that shortages of critical skills can have dire national security consequences. While Sputnik pointed out the importance of science and math education, September 11th reminded us that language skills and cultural awareness are essential for improving relations with the international community and strengthening our national security. However, nearly 4 years after that terrible day, we are still without sufficient language skills. We still have not learned the lesson that the Soviet launch of Sputnik taught us in 1958: investment in education is just as important to our national security as investing in weapons systems. As such, we need sustained leadership and a coordinated plan of action to address this on-going problem and to ensure that this Nation never

falls short in its language capabilities again or fails to communicate effectively with our neighbors around the world.

That is why I have introduced the National Foreign Language Coordination Act with Senators DODD and COCHRAN. Our legislation, S. 1089, is designed to provide the needed leadership and coordination of language education. Primarily, the legislation creates a National Foreign Language Coordination Council which is composed of the secretaries of various executive branch agencies and chaired by a national language director. The national language director would be appointed by the President and is to be a nationally recognized individual with credentials and abilities necessary to create and implement long-term solutions to achieving national foreign language and cultural competency. By having the key players of the executive branch on the Council, I hope that each agency will come away with an understanding of what their role is, how they can reach out to their stakeholders for input, and become engaged in addressing this problem.

The Council would be charged with developing and overseeing the implementation of a national language strategy. In particular, the Council would identify priorities, increase public awareness, advocate needed resources, and coordinate efforts within the Federal Government to ensure that we are meeting our goal of improved language education and cultural understanding. As former Senator and 9/11 Commissioner Bob Kerrey recently said, "Someone in the executive branch has got to say, 'Here's where we are today, here's where we want to be in five years, and here's what it's going to take to get there.'" The National Foreign Language Coordination Act will do just that.

There have been several articles issued recently that have highlighted the need for more language training and the need for leadership in this area. I ask that the following articles be printed in the RECORD:

Tichakorn Hill, Does Anyone Here Speak Arabic? (or Farsi, or Pashto?) The Government's Push to Close the Language Gap, *Federal Times*, June 20, 2005. John Diamond, Terror War Still Short on Linguists, *USA Today*, June 20, 2005. John Diamond, Muslim World Isn't Big with U.S. Students, *USA Today*, June 19, 2005.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From *USA Today*, Jun. 20, 2005]

MUSLIM WORLD ISN'T BIG WITH U.S. STUDENTS

(By John Diamond)

WASHINGTON—Despite an expansion of federal efforts to promote learning Arabic and other languages of the Islamic world, there has been no dramatic increase in Americans studying in countries where such languages are spoken, according to the latest statistics on overseas study. That's the case even

though the number of Americans studying abroad has more than doubled since the mid-1990s.

There are some signs of growing interest among American students in learning Arabic, which the U.S. intelligence community hopes will help bolster its ranks with specialists for the war on terrorism.

But as Karin Ryding, a professor of Arabic at Georgetown University, points out, U.S. intelligence can't get by with "hothouse" Arabic speakers who have learned the language sitting in American classrooms. They must travel to the region and immerse themselves to become fluent.

Overall interest in foreign languages hasn't surged either since the Sept. 11 attacks. The difficulty of learning Arabic and other Middle East languages means it will be years before academia can produce significantly more graduates fluent in languages important to U.S. national security.

"It's going to take a good, long while. It's going to be a lot more expensive. And it's a question of whether you can afford to wait," says Andrew Krepinovich, head of the Center for Strategic and Budgetary Assessments, a Washington-based defense think tank.

Numbers aren't good

For 2002-03, the first full academic year after 9/11, 1,293 Americans studied in predominantly Muslim countries in Africa, the Middle East and Asia. That's a 4.5% increase over the yearly average of 1,237 for the five years leading up to Sept. 11, according to an analysis of figures compiled by the Institute of International Education, which administers several federal study-abroad scholarship programs. The figures cover students who financed their own education as well as those who received private and public scholarships.

The list of majority-Muslim countries in which students studied is not identical from year to year but typically includes countries in the Middle East and North Africa such as Senegal, Morocco, Egypt, Saudi Arabia, Jordan, Kuwait, Lebanon and Turkey; and nations in Asia such as Pakistan, Indonesia and Malaysia.

The institute's figures show that more Americans are studying abroad: 174,629 in 2002-03, up from 84,403 in 1994-95. Yet fewer are focusing on foreign languages: Two decades ago, 16.7% of Americans studying abroad listed foreign languages as their primary field of study, according to the institute's figures. A decade ago, it was down to 11.3%; for 2002-03, 7.9%.

"Despite our growing needs, the number of undergraduate foreign language degrees conferred is only 1% of all degrees," Sen. Chris Dodd, D-Conn., said last month. Dodd is sponsoring legislation that would increase federal spending on language and foreign study and create a "national language director" to coordinate language programs.

The stakes are high, according to a January Pentagon report: "Conflict against enemies speaking less-commonly taught languages and thus the need for foreign language capability will not abate."

Language ability is critical not just for fighting wars or spying, says Thomas Farrell, deputy assistant secretary of State for academic programs. It also means having a better knowledge of "regions of the world that are important to the United States," Farrell says. "We're seeking to demonstrate, especially to countries with Islamic populations, that people in the United States have respect for their societies and want to learn about them."

Uptick in Arabic studies

For years, U.S. students didn't learn much about Arabic. In 2002, the latest nationwide figures available, 10,584 students were studying Arabic, whether as a major or an elective. That was a 92% increase from 1998 but



still amounted to fewer than 1% of all students enrolled in foreign language courses in 2002, according to a report by the Association of Departments of Foreign Languages.

The Department of Education is spending about \$10 million this year for language study centers based in the Middle East, U.S. language development centers and scholarships for study abroad. The Pentagon is spending \$3.6 million for Middle East language scholarships and other language programs. Some of the money is tied to promises that students will commit to jobs in national security.

The State Department handles the bulk of federal money for language scholarships through its Fulbright programs for undergraduates and scholars. Last year, the department spent \$86 million on Fulbright and other programs out of a total education and cultural exchange budget of \$231 million. Not all of that \$86 million was focused on Muslim countries, however.

Concerned that no one coordinates the federal programs, a group of senators—including Dodd, Thad Cochran, R-Miss., and Daniel Akaka, D-Hawaii—wants to start a National Foreign Language Coordination Council.

For now, U.S. military and intelligence agencies compete with one another for a small pool of qualified candidates. Arabic professor John Walbridge of the University of Indiana is worried about the push to fill hiring quotas.

"They're desperate for people," Walbridge says. "They're recruiting people who by no reasonable standard are ready to do intelligence work using Arabic."

[From USA Today, June 20, 2005]

#### TERROR WAR STILL SHORT ON LINGUISTS (By John Diamond)

WASHINGTON.—Nearly four years after the Sept. 11 attacks, the federal government has created a profusion of programs to train students in languages and cultures important in the war on terrorism. But government leaders and language experts say the effort is an uncoordinated jumble too slow to produce measurable results.

"We're not there, and we're not moving fast enough," says Rep. Pete Hoekstra, R-Mich., chairman of the House Intelligence Committee.

Since 9/11, Congress and the White House have pumped money into new and existing programs for training in Arabic and other Middle Eastern languages and cultures. Annual spending has jumped from about \$41 million in 2001 to \$100 million today. While the funding and programs have grown, the results are, so far, insufficient, according to Sen. Chris Dodd, D-Conn. The government needs to hire 34,000 foreign-language specialists, particularly Arabic speakers, for homeland security, defense and intelligence agencies, he says.

The effort to produce more speakers of Arabic and other languages of the Islamic world is needed because many Americans fluent in these languages have difficulty getting security clearances if they have relatives in the region. Producing a "home-grown" speaker of Arabic, with its different alphabet and many dialects, can take 10 years, says professor John Walbridge of the University of Indiana, "if you apply yourself."

No government agency coordinates this effort, and there are no readily available statistics on how many students get federal money intended to produce more speakers of Arabic, Urdu and other strategic languages and more experts on the Islamic world.

Based on public records and interviews with relevant officials, about \$9.5 million in federal money goes to programs designed

specifically to produce job candidates for U.S. intelligence and other national security agencies. Only about 40% of that total, roughly \$3.8 million, is focused on the Middle East.

The number of students in these programs—named for current and former chairmen of the Senate Intelligence Committee—is modest: 150 in the Pat Roberts Intelligence Scholars Program and 230 in the David Boren Scholarship program. About one-third of the students focus on Middle Eastern languages.

"Someone in the executive branch has got to say, Here's where we are today, here's where we want to be in five years, and here's what it's going to take to get there," says Bob Kerrey, a Democrat who served on the federal commission that investigated 9/11. That panel pointed out last year that only six students received undergraduate degrees in Arabic in 2002.

Walbridge and other Arabic scholars agree that living in the Middle East is essential to becoming fluent. But the number of Americans studying in predominantly Muslim countries has remained about the same as pre-Sept. 11 levels. In 2002-03, the most recent year for which figures are available, fewer than 1,300 Americans were studying in Muslim countries, or less than 1% of the Americans studying abroad.

"As a nation, we just don't have any sort of organized language policy, and it shows," says Kirk Belnap, director of a federally funded National Middle East Language Resource Center at Brigham Young University in Provo, Utah.

[From the Federal Times, June 20, 2005]

#### DOES ANYONE HERE SPEAK ARABIC? OR FARSI, OR PASHTO . . . THE GOVERNMENT'S PUSH TO CLOSE THE LANGUAGE GAP

(By Tichakorn Hill)

When a congressman asked David Kay, the former head of the U.S. team searching for weapons of mass destruction in Iraq, how many on his 1,400-person team spoke Arabic and understood the technology of weapons of mass destruction, the answer was discouraging.

"I could count on the fingers of one hand," Rep. Rush Holt, D-N.J., recalled Kay as saying about a year ago.

Similarly, Holt asked special forces who were combing through Afghan mountain ranges for Osama bin Laden how many of them spoke the local language of Pashto. They said they picked up a little while they were there.

"If Osama bin Laden is truly American public enemy No. 1, how do we expect to track him down if we cannot speak the languages of the people who are hiding him?" Holt said.

Whether it is military troops, intelligence analysts, translators, interpreters, or just federal employees delivering services to an increasingly diverse American population, there is a troubling shortage of people with foreign language skills. And the shortage is most critical in Middle Eastern and South Asian languages: Arabic; Pashto; Dari, which is spoken in Afghanistan; Farsi, spoken in Iran; Kurdish, spoken in Iraq, Iran, Turkey, Armenia and Syria; and Urdu, spoken in India and Pakistan.

The consequences, say experts, are disturbing. The problem threatens government efforts to keep the peace and rebuild infrastructure in Iraq, translate foreign documents and interpret foreign conversations that could prove to be valuable intelligence, explain U.S. policies to foreign populations, investigate terrorists, and track down illegal aliens.

The shortage of linguists "makes our mission of representing the American people

that much harder," said John Limbert, president of the American Foreign Service Association and a former ambassador to Mauritania. "Most of that mission involves communication—speaking and listening to what others are telling us. I don't see how we can do that without knowing the language of those with whom we are communicating."

The Defense and State departments, intelligence agencies, the FBI and many other agencies were suffering severe shortages of linguists even before 9/11. The FBI, for example, complained to Congress in 2000 that it had large stockpiles of audio tapes and documents awaiting translation. The Defense Department didn't have a single Dari-speaking employee. And it had only one Marine and one sailor who spoke Pashto.

Kevin Hendzel, a spokesman for the American Translators Association, estimates it will take intelligence agencies between 10 and 15 years to catch up in translating tons of materials recovered from Iraq and Afghanistan. "As a society, we pay a huge price for not being competent in foreign languages. This is particularly true in the national security area where the people who want to do us harm do not speak English," he said.

Federal agencies are expected to hire more than 10,000 contract and staff linguists this year.

But while hiring of linguists since 9/11 has exploded, it still hasn't kept pace with the government's needs—especially for people who know Arabic and South Asian languages.

The problem

Federal managers blame the American education system.

According to the National Center for Education Statistics, out of 2 million college graduates in 2004, only 17 earned bachelor's or advanced degrees in Arabic. Only 206 earned degrees in Chinese, the world's most popular language.

"Academia is not producing enough of the right kind of linguists fast enough," said an FBI official. "And we simply cannot wait for the education system to catch up."

But the government is trying to kick-start the system. Last year the Defense Department began awarding grants to universities for foreign language studies in Chinese, Arabic, Korean and Russian.

And in Congress, Holt introduced this year the National Security Language Act, which would subsidize colleges and universities that teach critical languages and offer intensive study programs overseas. The bill, which has 43 cosponsors, also would repay student loans for those who study critical foreign languages and then work for federal agencies or as elementary or secondary school language teachers.

The recruiting challenge

In their rush to recruit people with hard-to-find language skills, agency managers are trying a variety of tactics.

They hold job fairs in minority communities, such as Arabic communities in California and Michigan. They advertise in foreign-language newspapers, offer thousands of dollars in sign-up bonuses, and recruit at colleges and universities where needed languages are taught.

But there are a lot of factors working against them. One is stiff competition for a limited pool of candidates.

"We're always in competition with other federal agencies and the private sector for that talent," said Reginald Wells, deputy commissioner for human resources at the Social Security Administration.

Many candidates are foreign-born and foreign-educated, which presents another challenge for agencies trying to verify their credentials.

And as if finding people who speak difficult languages is not difficult enough, finding

people who know those languages at a professional or technical level is even harder.

"Many of our assignments are highly technical and they [native speakers] simply do not have vocabulary to move between the two languages. That's where our challenges lie," said Brenda Sprague, the director of Office of Language Services at the State Department.

Not all candidates who meet the grade want to work for, say, the Foreign Service and be posted far from their families, said Nancy Serpa, former director of the Human Resources for Recruitment, Examination and Employment at the State Department.

"The Foreign Service is not a career for everyone, and finding people who want to spend their career overseas away from their family is very difficult to begin with, even though we have a lot of people who take the Foreign Service test," Serpa said.

National Security Agency managers find that many candidates are reluctant to move even to the agency's Maryland headquarters.

"We may be successful in attracting people to the type of work we do and the opportunities and possibilities we have available, but we're not always successful in encouraging them to move to Columbia or Baltimore," said John Taflan, NSA human resources director.

Getting new employees a security clearance is another hurdle.

"We require, for all our full-time positions and even some of our contract positions, that people have the ability to obtain a security clearance, and that's become extremely difficult for those who are naturalized American citizens," Sprague said. "That limits your pool to a large extent."

Hiring binge.

Despite the recruiting challenges, agencies have been hiring.

Since 9/11, the FBI has hired nearly 1,000 linguists and plans to hire 274 more next fiscal year. Currently it has nearly 1,400 contract and full-time linguists who speak 100 languages. Ninety-five of those linguists are native speakers of their languages. The bureau increased its linguists by 69 percent and the number of those in critical languages, such as Arabic, increasing by 200 percent.

The State Department this year is hiring nearly 400 Foreign Service generalists, many of whom will get training to speak another language. It's also hiring translators and interpreters. Many of those new hires will staff new embassies in Baghdad, Iraq, and Kabul, Afghanistan; and a new liaison office in Tripoli, Libya. Currently the department has about 7,000 employees speaking 60 languages working in the United States and at 265 posts abroad.

Likewise, the National Security Agency is aggressively recruiting: Currently at 35,000 employees, the agency plans to hire 1,500 people every year until 2010, and many will become language analysts. It offers sign-up bonuses of up to 20 percent of a person's salary for those who speak critical languages. NSA also hires 50 to 200 bilinguals a year whom it then trains to speak a third language.

More training.

The shortage of linguists prompted the Defense Department to overhaul its language program. The department in April unveiled a plan, called the Defense Language Transformation Roadmap, to build up its foreign language skills. It includes directing money to colleges and universities to teach languages. Also, the department plans to invest \$45 million more than current levels—\$195 million in fiscal 2006—in its Defense Language Institute. The department also will build a database of active-duty personnel, civilians, reservists and retirees who speak foreign languages.

"9/11 really changed our whole orientation to understand that this is a major issue that's going to be with us for a long time," said Gail McGinn, Defense deputy undersecretary for plans. "It's going to take a long time to solve it."

Today, Defense has nearly 84,000 military linguists who speak about 250 languages and dialects—up from 72,000 in 2000. The military services plan to train about 2,300 linguists this year. The Air Force is the most active and plans to train 1,500 military linguists this year.

Agencies that cannot hire or train enough people with foreign language skills borrow them from other agencies or contract for them.

Congress in 2003 also created the National Virtual Translation Center, an interagency clearinghouse that lets agencies share translators with each other or to seek the services of translators in the private sector and academia. The center also performs translation work for intelligence agencies.

Federal contracting for people with language skills has taken off since 9/11. But as demand has shot up, so have labor rates.

Before 9/11, a linguist speaking Arabic might get paid \$15 or \$20 an hour. Now, rates are about double that. And for those with security clearances and expertise, rates are up to between \$70 and \$80 an hour. A contract linguist working in Iraq now can make \$150,000 a year, Hendzel said.

Not all agencies are willing to pay so much, he said. Some want to settle for \$20 an hour and hire someone who can speak a foreign language but may not be certified or have experience or expertise in a particular field. By doing that, Hendzel said agencies risk getting poor-quality work that could undermine their missions.

"Mistranslation or distortion are as dangerous as a lack of translation," he said.

Mr. AKAKA. We all understand the importance of language education and cultural understanding in this country; we just need to figure out how we make it happen. I am confident the National Foreign Language Coordination Council will provide the needed leadership and coordination to reach our goal.

#### U.N. REFORM

Mr. COLEMAN. Mr. President, I rise today to discuss Coleman-Lugar bill that will effect meaningful and reasonable reform of the United Nations. But before I delve into the issues of U.N. reform, I must take a moment to thank my colleague Senator LUGAR for his leadership. As the chairman of the Senate Foreign Relations Committee, Senator LUGAR has been at the forefront of these issues for years—working to pass bipartisan, consensus legislation touching a wide range of international matters. In short, Senator LUGAR's leadership on the issue of U.N. reform has been crucial.

Sixteen months ago, as the chairman of the Permanent Subcommittee on Investigations, I initiated a bipartisan, comprehensive investigation into the massive international fraud that flourished under the United Nations Oil for Food Program. You will recall this program was created to help protect the poor of Iraq from the impact of international sanctions. Unfortunately, Saddam Hussein manipulated the pro-

gram—siphoning off billions of dollars in under-the-table payments—and used that money to strengthen his murderous regime at home and reward friends abroad. As Secretary of State Condoleezza Rice testified at her confirmation hearing, Saddam Hussein was "playing the international community like a violin." It could not have been more wrong: evil prospered while the poor starved; the program designed to control and oust the oppressor actually helped him stay in power and bolster his arsenal.

Over the course of our 16-month investigation, the subcommittee has held three hearings and released three reports on the oil-for-food scandal. At those hearings and in our reports, we exposed how Saddam abused the program—we documented how the Hussein regime rewarded political allies by granting lucrative oil allocations to foreign officials, such as Russian politician Vladimir Zhirinovskiy and the Russian Presidential Council; we presented evidence of how Saddam made money on the oil deals by demanding under-the-table surcharge payments, and how he generated illegal kickbacks on humanitarian contracts.

All of Saddam's abuses occurred under the supposedly vigilant eye of the U.N. How could that happen? Well, over the course of our investigation, an avalanche of evidence has emerged demonstrating that the U.N. terribly mismanaged the Oil for Food Program. That evidence revealed mismanagement ranging from outright corruption to sloppy administration. For instance:

Our subcommittee uncovered evidence that Kofi Annan's handpicked executive director of the Oil for Food Program, a man named Benon Sevan, appears to have received lucrative oil allocations from Saddam.

Our subcommittee discovered evidence that a U.N. oil inspector received a large bribe to help Saddam cheat on two oil deals.

Fifty-eight reports written by the U.N.'s own internal auditors revealed rampant mismanagement by the U.N., describing a program rife with sloppy stewardship and riddled with "overcharges," "double charge[s]" and other "unjustified" waste of more than \$100 million.

The U.N.'s investigators, headed by Paul Volcker, determined that the U.N.'s process for awarding three multimillion-dollar contracts in the program was "tainted."

The U.N.'s investigators also found that Kofi Annan failed to adequately investigate or remedy a serious conflict of interest—namely, that the U.N. had awarded a massive contract to the company that employed Annan's son.

Perhaps most disturbing, however, was that Kofi Annan's chief of staff ordered the destruction of 3 years' worth of documents. That order was given the day after the U.N. decided to investigate the Oil for Food Program.

Such gross mismanagement and corruption in the Oil for Food Program

raise serious questions about the U.N.'s ability to administer crucial programs in the future. American taxpayers pay roughly 22 percent of the U.N.'s operating costs. They need assurances that their tax dollars are well spent. This is especially true in light of the fact that the U.N. is playing an increasingly larger role in world affairs.

As a result, we must bring about meaningful and reasonable reform of the U.N. Such reforms must include three elements. First is the concept of "transparency." As Supreme Court Justice Brandeis famously stated, "Sunlight is the most powerful of all disinfectants." Today, the U.N.'s operations are shrouded in mystery—not a single ray of sunlight disinfects the internal machinations of the U.N. The U.N. should be transparent to its member states, and use those rays of sunlight to prevent another episode of massive mismanagement.

Another necessary element for U.N. reform is "accountability." Specifically, U.N. officials responsible for the operation and management of programs, such as sanctions regimes and humanitarian efforts, must be held accountable for their performance. Such accountability should apply to all U.N. officials from the highest to the lowest.

The third element necessary for U.N. reform is effective internal oversight. Simply put, the U.N.'s internal auditor—the Office of Internal Oversight Services, OIOS, needs drastic improvement. The OIOS is woefully underfunded and lacks true independence. With respect to funding, the OIOS receives \$24 million per budget—a paltry pittance when compared to the \$162 million allocated to U.N.'s press office. Without an effective and independent auditor, the U.N.'s operations will continue to be plagued with misconduct and mismanagement.

Those crucial elements are the cornerstones of the proposed Coleman-Lugar bill, the United Nations, Management, Personnel, and Policy Reform Act of 2005. The bill presents a well-balanced and constructive U.N. reform initiative that addresses: (1) a variety of U.N. management weaknesses identified by the subcommittee, a lack of transparency, oversight, accountability, and effective budgetary and personnel systems, and (2) a series of U.N. policy issues that need reform, including peacekeeping and human rights. The legislation strikes an appropriate balance between important goals: effecting crucial U.N. reforms, preserving U.N. administrative discretion, and ensuring limited U.S. government monitoring and oversight.

Our proposed legislation underscores that an effective United Nations is in the interest of the United States and that the United States must lead the United Nations toward greater relevance and capability. The bill also emphasizes that the U.S. push for further reform will require bipartisanship and the joint involvement of the executive and legislative branches so that

the U.S. presents a unified position toward the United Nations. The proposed legislation exhorts the U.S. to use its voice, vote, and funding in the U.N. to accomplish U.N. management, personnel, and policy reforms. It requires the President to submit an annual report on U.N. reform to "appropriate congressional committees." It also authorizes the President to withhold 50 percent of U.S. contributions to U.N. if he determines that the U.N. is not making sufficient progress in implementing reforms described in the act.

While the proposed legislation acknowledges that the U.N. has initiated some reforms, it also recognizes that the U.N. has failed to make many necessary changes. The bill cites past GAO reports on U.N. reforms and recent U.N. reports, including the High-Level Panel Report and the Secretary-General's Report, on the need to expedite existing reforms and implement new urgently-needed reforms. It emphasizes that the U.N. must transform itself to meet current and future challenges and undertake institutional reforms that ensure the effectiveness, integrity, transparency, and accountability of the United Nations system.

The proposed legislation recognizes the important findings of the subcommittee in its Oil for Food Program investigation identifying key internal management weaknesses that led to mismanagement, fraud, and abuse of the program. It also cites the June 2005 Gingrich/Mitchell U.N. Reform Report. The majority of the U.N. management, personnel, budget, and policy issues addressed in the proposed legislation are consistent with many recommendations of the subcommittee and the recent Gingrich/Mitchell report.

The management section of the proposed legislation stems from the many U.N. management weaknesses revealed in the subcommittee's oil-for-food investigation. The section strengthens the power of the Secretary-General to replace top officials in the U.N. Secretariat and recruit only the highest quality individuals, placing emphasis on professional excellence over geographic diversity. It calls for an updated assessment of the U.N. procurement system and the establishment of a new and improved procurement process that embodies the standards currently present in the U.S. Foreign Corrupt Practices Act of 1977, which prohibit officials from making or receiving payments, gifts, or exchanging other promises to secure an improper benefit.

In short, this legislation will help transform the United Nations into a modern and dynamic institution capable of responding to the many complex and varied challenges confronting it. The reforms embodied in this legislation provide the United Nations the opportunity to embrace change and regain its role as a critical institution in today's rapidly changing international environment. This legislation will force the United Nations to be a better

managed, transparent, and accountable organization. This legislation will prevent reoccurrences of scandals like the Oil for Food scandal, peacekeeping abuses, and other managerial failures.

I must reiterate the importance of a robust and effective U.N. for the future of U.S. relations with the international community. The U.N., when properly led and properly managed, can play an important role in promoting global peace and stability. Real reform, and not mere rhetoric, is the proper course of action to ensure an effective U.N.—the mission of the U.N. is simply too important to look the other way.

As I conclude my remarks, I would like to reiterate my thanks to Chairman LUGAR for his leadership on the issue of U.N. reform and for the opportunity to work with him to tackle this important issue.

#### ADDITIONAL STATEMENTS

##### RECOGNITION OF KENNETH W. MONTFORT COLLEGE OF BUSINESS

• Mr. ALLARD. Mr. President, I rise today to congratulate Kenneth W. Montfort College of Business at the University of Northern Colorado on receiving the 2004 Malcolm Baldrige National Quality Award, the Nation's highest honor for quality and performance excellence.

The Kenneth W. Montfort College of Business at the University of Northern Colorado is the sole business school to receive the Malcolm Baldrige National Quality Award from the National Institute of Standards and Technology. This award recognizes the outstanding performance and accomplishments of American businesses, schools, and health care organizations that surpass standards of excellence and ethics.

Monfort College of Business offers the only program of its kind in the Rocky Mountain region focused exclusively on undergraduate business education and internationally accredited in business administration and accounting. Monfort is one of five undergraduate-only programs in the United States to hold such accreditations. Students at Monfort score in the top 5 percent on nationwide standardized exit exams and earn a degree in business administration with an emphasis in accounting, computer information systems, finance, general business, management, or marketing. An interdisciplinary degree is also available in nonprofit management. Monfort's student-centered approach is exemplified by its three-dimensional learning strategy: High-Touch, small class sizes taught on an interactive basis, Wide-Tech, exposure to a wide array of business technologies, and Professional Depth, instruction from seasoned professors, including highly placed executives.

Understanding the importance of a well-rounded college education is important if we are to produce the next

generation of our State's and our Nation's leaders. I commend Kenneth W. Montfort College of Business at the University of Northern Colorado for their efforts to promote excellence in higher education. Undoubtedly, their success serves as an example of excellence to colleges and universities around the country.

I ask my colleagues to join me in congratulating the Kenneth W. Montfort College of Business at the University of Northern Colorado for being recognized for their efforts and success.●

#### A TRIBUTE TO COLONEL RAY ALEXANDER

● Mr. BURR. Mr. President, I rise today to offer my thanks and appreciation, and those of all North Carolinians, to Colonel Charles "Ray" Alexander, Jr., Commander of the Army Corps of Engineers Wilmington, NC district. Today is Colonel Alexander's last day as commanding officer of the district. While we celebrate his retirement with his family, we will miss the impact he has had on North Carolina and the Nation.

Colonel Alexander has distinguished himself with exceptionally meritorious service as district commander since 2002. Under his command, the district continued construction of the Wilmington Harbor deepening project and met the target for delivering deep water to the State port docks in January 2004 despite numerous fiscal challenges. The Wilmington Harbor deepening is the largest civil works project in the district's history and a very important navigation project, providing economic benefit to the State. Additionally, the deeper channel has been an asset to the local military installations in support of the global war on terror.

Under Colonel Alexander's direction, the district has been involved and successful in protecting the Nation's environment. Numerous environmental enhancement projects, including the Roanoke Island Festival Park aquatic habitat restoration and protection project, are testament to this highly successful program.

This and many other projects earned the district the 2004 Coastal America Partnership Award and North Carolina Coast Federal Pelican Award, the 2003 Chief of Engineers' Environmental Award for product delivery team design and construction of an island estuarine habitat, and nomination and subsequent recognition as the North Carolina Conservationist Partner of 2003 by the North Carolina Land Trust Council. A district project delivery team under Colonel Alexander's command also earned an environmental award from the Environmental Protection Agency for its work cleaning up EPA facilities in the Research Triangle Park.

Colonel Alexander also executed a systematic plan to improve relation-

ships with local, State, and Federal entities. Locally, we completed re-nourishment of Kure, Carolina, and Bald Head Island Beaches and a project to reinstitute the use of dredged materials on Bogue Banks. Additionally, the district created a water management committee to meet the needs of over 40 agencies and many private citizens.

Colonel Alexander also led the efforts in 2003 to provide exceptionally responsive emergency management services during Hurricane Isabel in North Carolina, including the highly successful reconstruction of vital road infrastructure for the Cape Hatteras breach. He also led the Wilmington effort in aiding the recovery from the record-breaking 2004 hurricane storm season.

I would also like to commend Colonel Alexander for his support of the Army Corps outside his district and in the war on terror. His selflessness was exhibited by his leadership for the \$84 million recovery effort in 2004 after Hurricane Ivan devastated Alabama. This highly complex operation included providing emergency power, ice, water, housing, debris collection and reduction, roofing, and technical assistance to the citizens of Alabama following the storm, which made landfall 700 miles from the district headquarters. Hundreds of Corps of Engineers employees from all over the Nation were brought in to this well executed operation.

Colonel Alexander's leadership and commitment in the global war on terror is evident in his ability to motivate more than 20 team members to volunteer to serve abroad as members of South Atlantic Division's Forward Engineer Support Teams, Task Force Restore Iraqi Electricity, the Gulf Region Division, and the Afghanistan District. The number continues to grow and several members have served on multiple deployments.

In closing, generations of North Carolinians who have never met Colonel Alexander will benefit from the results of his work. At this special time in his career, I wish him all the best and thank him for a job well done.●

#### LIEUTENANT COMMANDER ELIZABETH J. FRENCH

● Mr. BURR. Mr. President, the Naval Hospital at Camp Lejeune, NC, has selected LCDR Elizabeth J. French to be the hospital's Officer of the Year for 2004. She serves as the department head for the inpatient obstetrics department at the hospital. U.S. Navy Captain Richard C. Welton presented Commander French with a Letter of Commendation for her "dedication to this Command and continual support of superb family centered maternal and childcare services in the Obstetric Department sets the standard."

I am proud of Elizabeth French's outstanding service and I ask unanimous consent that Captain Welton's Letter of Commendation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

#### LETTER OF COMMENDATION

The Commanding Officer, Naval Hospital Camp Lejeune takes pleasure in commending Lieutenant Commander Elizabeth J. French for service as set forth in the following citation: Upon the occasion of her selection as the Officer of the Year, Calendar Year 2004, Commander French is commended for her dedicated and outstanding performance of duty while serving as the Department Head, Inpatient Obstetrics Department, Naval Hospital, Marine Corps Base, Camp Lejeune, North Carolina from 1 January 2004 to 31 December 2004. Commander French's dedication to this Command and continual pursuit of superb family centered maternal and childcare services in the Obstetric Department sets the standard. She expertly led 70 military, civilians, and contract personnel in providing quality and safe care for 1,500 births and 4,800 outpatient visits. She chaired the Lactation Council and coordinated lactation services. Commander French implemented a lactation consult call schedule to provide 24/7 lactation services for 300 beneficiaries, which reduced infant readmissions for hyperbilirubinemia and dehydration by 80 percent. Clinically proficient, Commander French provides daily hands-on care to patients in addition to covering critical staffing shortages during off-duty hours. She coordinated the Bureau of Medicine and Surgery's, Family Centered Care training for more than 40 medical and nursing personnel. Commander French saved the Command \$5,000 in Temporary Additional Duty costs when she established a regional testing site for the Maternal Newborn and Inpatient Obstetric Nursing National Certification exam, allowing 10 military and civilian nurses to locally obtain certification. She coordinated the \$5 Million Labor and Delivery, Recovery, and Postpartum renovation project, continuously interacting with Facilities Department personnel, contractors, news media and multiple hospital departments to ensure the project remained within contractual agreements and maintained patient safety and workload. Commander French's professionalism, initiative, and total devotion to duty reflected great credit upon herself and were in keeping with the highest tradition of the United States Naval Service. On behalf of the entire staff, she is extended the traditional Navy "Well Done."

RICHARD C. WELTON,  
Captain, Medical Corps,  
United States Navy.●

#### 100TH ANNIVERSARY OF FORDVILLE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 1-3, 2005, the residents of Fordville, ND, past and present, gathered to celebrate the community's centennial.

Fordville is a city in the northeastern part of my great State with about 266 residents. Although its population is small, Fordville holds an important place in the history of North Dakota. Medford was founded in 1905 and was an important stop along the Soo Railroad line. Because of confusion caused as a result of other stations along the Soo line with the name Medford, it was decided to combine its name with the rural post office of

Belleville. The combination of Medford and Belleville resulted in the now familiar name of Fordville.

The people of Fordville are proud of their local public schools and the railroad system, which helps to sustain the city. Additionally, the city has a strong farming co-operative system featuring a new grain elevator. Their lively centennial celebration included a parade, street dance, musicals and a fireworks display.

I ask the Senate to join me in congratulating Fordville, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Fordville and all the other historic small towns of North Dakota, we keep the pioneering tradition alive for future generations. It is places such as Fordville that shaped this country into what it is today, which is why this fine community deserves our recognition.

Fordville has a proud past and a bright future.●

#### 100TH ANNIVERSARY OF TURTLE LAKE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. From July 15 to 17, the residents of Turtle Lake, ND, will celebrate their history and the town's founding.

Turtle Lake is a small town in north-central North Dakota with a population of 580. Despite its small size, Turtle Lake holds an important place in North Dakota's history. The founder of Turtle Lake was Peter Miller, the earliest homesteader in the region. Mr. Miller established the Turtle Lake post office in his farmhouse on January 25, 1886, and subsequently formed the first Turtle Lake business by setting up a shop under a lean-to. As other businesses spread throughout the area, the Miller town site was formed. Over the next decade, the post office moved to Wanamaker town site and then finally to the current location of Turtle Lake, north of the lake itself. The communities of the area came together and were incorporated as the village of Turtle Lake in 1907. Turtle Lake is a thriving community today, with a rapidly growing tourist industry that brings visitors to the turtle shaped lake for which the town is named.

I ask the Senate to join me in congratulating Turtle Lake, ND, and its residents on their first 100 years and in wishing them well through the next century. I believe that by honoring Turtle Lake and all the other historic small towns of North Dakota, we keep the pioneering, frontier spirit alive for future generations. It is places such as Turtle Lake that have helped to shape this country into what it is today. I believe that the community of Turtle Lake is deserving of our recognition.

Turtle Lake has a proud past and a bright future.●

#### IDAHO'S VERY OWN GUNFIGHTERS

● Mr. CRAPO. Mr. President, I would like to recognize a nontraditional Idaho community that although a Federal installation, is as much a part of our State as any other community. The Mountain Home Air Force Base Gunfighters support and execute our military air mission worldwide while devoting time and energy to improve the quality of life on base and off.

In the 1940s, Mountain Home Air Force Base was established and over the next few decades took on many different Air Force missions including bombers, fighters, tankers, and even intercontinental ballistic missiles for a short time. As the needs and overall mission of the Air Force has evolved over the years, Mountain Home has followed suit, proven to be a site of flexibility and superior support, operations, and training. Wings based at Mountain Home have provided air support all around the world and, in times of need like September 11, here at home. The capabilities of the personnel, facilities, resources and organizations at Mountain Home have always been characterized by flexibility, readiness and immediate and forceful global deployment in a tightly controlled and effective command and control environment. Exercising their skills and military professionalism, Gunfighters have not only fought the battles but participated in reconstruction and humanitarian missions in the current conflict in the Middle East as well as other places around the globe where innocent people are suffering from the evils of poverty, economic oppression, and the tragedies of natural disasters.

In a similar way, Gunfighters have proven to be able to "deploy" to the community on base and off at a moment's notice when duty calls. Last year alone, volunteers worked on base more than 100,000 hours valued at \$1.5 million. Many of these individuals already have more than full-time work in the military but have found the time to make a difference to others expecting no compensation. Stories abound of emergency assistance given by members of the military to civilians in Idaho. Recently, two jet fighters escorted a disabled civilian aircraft to safety, averting a possible crash and fatality. Another form of giving that is particularly important to the troops who are deployed is donating blood. I am proud to say that in the recent Armed Forces blood drive, Mountain Home Air Force Base more than doubled its goal and donated a total of 265 units of blood that was shipped directly to Iraq. In addition, the base sent 60 units of a special blood product designed to promote quick clotting to our mobile medical units. What a terrific example of fellow soldiers and families lending aid and comfort to our military men and women across the world.

I offer my sincere thanks and gratitude to our very own Idaho Gunfighters, both at Mountain Home and deployed. You make Idaho proud.●

#### HONORING THE CITY OF CHAMBERLAIN, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I wish to honor and publicly acknowledge the 125th anniversary of Chamberlain, SD, a small city nestled on the eastern bluffs of the Missouri River marking the divide between eastern and western South Dakota.

Chamberlain, located in Brule County in central South Dakota, was founded in 1880. The land on which the town is located was obtained from the Federal Government by means of Civil War script. Once the property was acquired, a small group of men, for whom the streets of the city are now named, established the town. Soon thereafter, it was announced that the railroad would pass through the area, thus bringing a flood of pioneers to the city in search of a new home on the frontier.

The town of Chamberlain grew rapidly. Within weeks, it was home to the Merchant's Hotel, the Brule County Bank and the Dakota Fire and Marine Insurance Company. Chamberlain's post office was established in May of 1881, and the Dakota Register, the town's first newspaper, was founded later that year.

The first church in Chamberlain was the Congregational Church, established under the leadership of Reverend W.H. Thrall. Built in 1881, the structure was donated by Selah Chamberlain, an officer of the Milwaukee railroad and the man for whom Chamberlain was named. The church still stands today as a symbol of unity in this small city. Other denominations, including the Methodists, Catholics, Episcopalians, Lutherans, and Seventh Day Adventists, also established their respective churches in Chamberlain's early years.

Ask any of its residents about the history of Chamberlain and they will probably recount the story of Theodore Roosevelt's campaign visit. Roosevelt and his band of Rough Riders arrived from the west on a very windy day when the air was so full of dust that people could barely see each other as they made their way around the town. Consequently, two cowboys collided on the street and one of the horses was killed in the accident. Roosevelt asked Mr. Lockwood, marshal of the day, if a local cowboy would lend him a horse. The request was overheard by a nearby rancher who promptly offered up one of his. Roosevelt, proud of his new acquisition, rode the horse around town with local boys until he left to continue his campaign elsewhere.

Chamberlain is also known as one of the many places the Louis and Clark Expedition passed through. In mid-September of 1804, the team was greeted by exotic animals, such as jackrabbits, antelopes, mule deer and black-billed magpies, as well as the enormous herds of buffalo, deer, elk and antelope. The path the expedition traveled is now a popular hiking destination for outdoorsmen and history buffs alike.

Like most young communities in the Dakotas, Chamberlain was not without

its share of tragedy and hardship. In the first two years of Chamberlain's existence, the pioneers of the area experienced two of the hardest winters on record. Also, few can forget the typhoid epidemic in 1932. Towns upstream believed an old tale that the water in the river cleansed itself every 20 feet due to its saturation of mud and sand. As a result, many residents diverted their sewage into the river. Unfortunately, this resulted in a widespread typhoid outbreak. In a matter of months, the disease claimed the lives of 33 Chamberlain residents.

Anyone who has traveled the State of South Dakota can attest to the beautiful vistas from the eastern bluffs of the Missouri River. This picture of the river stands as a warm welcome to western South Dakota and is a lasting reminder of the unique treasures and beauty of our State. Perhaps it was this panorama which inspired an early pioneer to write, "I've reached the land of wealth and kine, a home in it may yet be mine."

I take this opportunity to recognize the achievements of the small city of Chamberlain and to congratulate its 2,260 residents as they celebrate their vibrant 125 year history.●

#### HONORING THE CITY OF MADISON, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, it is with great honor that I wish today to publicly recognize the 125th anniversary of the founding of the city of Madison, SD. It is at this time I would like to draw my colleagues' attention to the achievements and history of this charming city that stands as an enduring tribute to the moral fortitude and pioneer spirit of the earliest Dakotans.

Located in the eastern part of South Dakota, Madison is one of the oldest towns in Lake County. The present town of Madison is actually the result of the merging of two cities, Madison and Herman. Lake County was established in January of 1873, and in the fall of that year, the county commissioners selected Madison to serve as the county seat. Interestingly, the town of Madison was not platted until July of 1875, 2 years after receiving its county seat title. The nearby town of Herman was founded in 1878 and a rivalry quickly developed between the two communities.

In 1880, the southern Minnesota division of the Milwaukee Railroad decided to extend the rail line through the region. The area chosen for the tracks, however, missed Madison by three miles but passed through Herman. Herman's close proximity to the trains put Madison's status as county seat in jeopardy. Consequently, Madison residents decided to relocate their town to a new 320 acre plot owned by Mr. and Mrs. C.B. Kennedy, which was in the railroad's path. When railroad officials favored Madison over Herman, the two communities decided to merge into one, thus forming the present city of "new" Madison.

Madison grew rapidly. The move to the new town began in August, 1880, when the J.H. Law building was transported from old Madison into new Madison. Dyer Hardware and the P.H. Harth General Store quickly followed. By the end of 1880, Madison boasted two general stores, a drug store, a livery barn, a blacksmith shop, a carpenter shop, three saloons, and a millinery store.

The area's first newspaper, the Lake County Leader, was established by F.C. Stowe in Herman. In 1880, Stowe moved the printing press to Madison, and in the spring of 1881, Stowe sold the Leader. After passing through a few hands, James F. Stahl eventually purchased the paper. Stahl converted the weekly paper into a daily publication in 1890. Madison's second paper, the Madison Sentinel, began in old Madison in April, 1879 by Joe H. Zane and F.L. Fifield. The Leader and Sentinel were competitors until 1937, when the two combined to form the Madison Daily Leader. Since 1947, the Hunter family has published the Madison Daily Leader, and to this day the paper continues to provide residents with accurate and reliable news coverage.

Among Madison's notable attributes is its public library. In 1905, town residents held a meeting and decided to create the facility. Quickly thereafter, the community raised money, donated books, and secured a room in the building of Mr. John Warren's new bank. The Madison Free Public Library opened its doors in December of that year. Meanwhile, George R. Farmer had been working with Andrew Carnegie to secure additional funds for a library. One month after the opening of the Madison Free Public Library, Farmer received word from Carnegie's private secretary that Carnegie would donate \$10,000 to erect a public library if the city would provide and maintain a suitable site for the building. A site was selected and construction quickly began. On Thursday, November 12, 1907, the new Madison Library opened. In 1960 and 1980, improvements were made to the building. Yet these modifications pale in comparison to the major renovations undertaken in 1994, when the size of the library was increased by 400 percent with a striking architecturally compatible addition. The facility now houses 48,055 books and more than 3,500 audiovisual materials.

Like most communities in the Dakotas, Madison's history is not without its share of tragedy and hardship. On July 4, 1919, "The Reliance," a touring boat used to take people around Lake Madison, set out with a group of 32 passengers to view the fireworks from the water. The ship headed across the lake to hug the shoreline as it always did. Sadly, it struck a sunken tree about 80 to 100 feet off shore. The passengers on board panicked and rushed to one side of the vessel, causing it to capsize. Nine people, including the engineer, drowned in that tragic accident.

Similarly, on the night of April 11, 1980, the Hotel Park caught fire and burned for nearly 8 hours, killing four people. The blaze was so difficult to contain that the National Guardsmen, who were on their weekend drill in Madison, were called in to assist the exhausted firefighters the following morning. Despite these adversities, this resilient community has always managed to recover, rebuild and prosper.

Madison is home to Dakota State University, DSU, founded in 1881 by William H. Beadle. DSU is recognized nationally as a leader in computer and information systems. Additionally, Karl Mundt was a notable DSU faculty member. Not only was Mr. Mundt an extraordinary speech and social science teacher, but he also served in Congress longer than any other South Dakotan. Elected to the House of Representatives in 1938, he remained a Congressman until 1948, when he took office as U.S. Senator from South Dakota. Senator Mundt held that post until 1972, having served 34 years in Congress.

The sense of community, moral fortitude, perseverance, and enduring work ethic that is evident in the people and the history of Madison stands as a testament to the integrity of all South Dakotans. It is my honor to acknowledge the proud residents of Madison, as they celebrate 125 years of history.●

#### TRIBUTE TO CAPTAIN JAMES C. STEIN

● Mr. WARNER. Mr. President, I rise today to recognize and honor Captain James C. Stein, United States Navy, as he retires from the Naval Service. Captain Stein is a Naval Officer of the finest caliber who has established an impeccable reputation in the Navy and with the Senate through his distinguished tour as deputy director of the Navy Senate Liaison Office.

He is a 1982 graduate of the University of Notre Dame. As the midshipman achieving the highest 4-year academic average in the NROTC curriculum, he received the Notre Dame Reverend Hugh J. O'Donnell Award.

A Captain's List flight student, he was designated a Naval Aviator in 1984. His initial squadron tours were with Patrol Squadron 26, Patrol Squadron 30 as a Fleet Replacement Squadron Instructor Pilot, and as a department head with Patrol Squadron 10. He served as the Assistant Navigator in USS *Ranger*, CV-61, during Operation Desert Storm, was selected as the 1991 Pacific Fleet Shiphandler of the Year, and ultimately earned designation as a Surface Warfare Officer.

While ashore, Captain Stein earned a master of arts degree in national security and strategic studies from the Naval War College. He served on the chief of Naval Operations' staff as the



assistant Maritime Patrol Aviation Requirements Officer, and deputy executive assistant to the director, Air Warfare. Selected for the Navy Federal Executive Fellowship program, he attended the Harvard University Center for International Affairs John M. Olin Institute for Strategic Studies.

Captain Stein commanded Patrol Squadron 8, leading the Fighting Tigers on a highly successful Sigonella, Sicily deployment, earning the Naval Air Forces Atlantic Fleet Battle Efficiency Award, Meritorious Unit Citation, and Atlantic Fleet Retention Excellence Award. As commanding officer, Captain Stein was one of four finalists for the prestigious Vice Admiral J. B. Stockdale Leadership Award.

Following command, Captain Stein reported to the Office of Legislative Affairs, where he has served as a valued advisor to the very top echelons of the Navy and Congress. His insight into the legislative process is respected and sought out by all levels of the chain of command. The Department of the Navy, the Congress, and the American people have been served well by this dedicated naval officer. Members of this Congress will not soon forget the leadership, service, and dedication of Captain Jim Stein. He will be missed.

I have had the privilege of working with this outstanding Naval officer and commend him for his dedicated service to our country. We wish Jim, his lovely wife Melissa, and their sons Alexander and William, our very best as they move on to a bright future.●

#### MESSAGE FROM THE HOUSE

At 12:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 68. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory.

H.R. 739. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to the filing of a notice of contest by an employer following the issuance of a citation or proposed assessment of a penalty by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for judicial deference to conclusions of law determined by the Occupational Safety and Health Review Commission; and to provide for the award of attorneys' fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration.

H.R. 804. An act to exclude from consideration as income certain payments under the national flood insurance program.

#### MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 68. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 739. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to the filing of a notice of contest by an employer following the issuance of a citation or proposed assessment of a penalty by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for judicial deference to conclusions of law determined by the Occupational Safety and Health Review Commission; and to provide for the award of attorneys' fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration; to the Committee on Health, Education, Labor, and Pensions.

H.R. 804. An act to exclude from consideration as income certain payments under the national flood insurance program; to the Committee on Banking, Housing, and Urban Affairs.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

S. 1382. A bill to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1394. A bill to reform the United Nations, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2920. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Wray, CO" ((RIN2120-AA66)(2005-0133)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2921. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Area Navigation Instrument Flight Rules Terminal Transition Routes; Charlotte, NC" ((RIN2120-AA66)(2005-0135)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2922. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Restricted Area 2211, Blair Lakes, AK" ((RIN2120-AA66)(2005-0132)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2923. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Restricted Areas 5103A, 5103B, and 5103C and Revocation of Restricted Area 5103D; McGregor, NM" ((RIN2120-AA66)(2005-0134)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2924. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-200F and 400 Series Airplanes; Model 767-400ER Series Airplanes; and Model 777 Series Airplanes" ((RIN2120-AA64)(2005-0282)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2925. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200 Series Airplanes" ((RIN2120-AA64)(2005-0283)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2926. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 400 Series Airplanes" ((RIN2120-AA64)(2005-0285)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2927. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 0100 Airplanes" ((RIN2120-AA64)(2005-0284)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2928. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120-AA64)(2005-0287)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2929. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-200, 300, and 400ER Series Airplanes Equipped with Door-Mounted Escape Slides" ((RIN2120-AA64)(2005-0286)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2930. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6-45A, CF6-50A, CF6-50C, and CF6-50E Series Turbofan Engines; Correction" ((RIN2120-AA64)(2005-0288)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2931. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Revo, Incorporated Models Colonial C-2, Lake LA-4, Lake LA-4A, Lake LA-4P, and Lake LA-4-200 Airplanes" ((RIN2120-AA64)(2005-0289)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2932. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Teledyne Continental Motors S-20, S-1200, D-2000, and D-3000 Series Magnetos" ((RIN2120-AA64)(2005-0290)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2933. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca S.A. Arrius 2 B1, 2 B1A, 2 B1A-1, and 2 B2 Turbohaft Engines" ((RIN2120-AA64)(2005-0291)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2934. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 401, 401A, 402, 402A, 402B, 411, and 411A Airplanes" ((RIN2120-AA64)(2005-0292)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2935. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 402C and 414A Airplanes" ((RIN2120-AA64)(2005-0293)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2936. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: GROB-WERKE Model G120A Airplanes" ((RIN2120-AA64)(2005-0294)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2937. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-200, 300, 400, 500, 600, 700, 800, 900, 757-200, and 300 Series Airplanes; and McDonnell Douglas Model DC 10-10, DC 10-10F, DC 10-30, DC 10-30F, DC 10-40, MD 10-10F, MD 10-30F, MD-11, and MD-11F Airplanes" ((RIN2120-AA64)(2005-0295)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2938. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200, -200PF, and -200CB Series Airplanes" ((RIN2120-AA64)(2005-0296)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2939. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Aircraft Corporation Model S-92A Helicopters" ((RIN2120-AA64)(2005-0297)) received on June 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2940. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Approval of Clarifications of Requirements for Fuel-burning Equipment" (FRL7933-6) received on June 28, 2005; to the Committee on Environment and Public Works.

EC-2941. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Transportation Conformity" (FRL7928-6) received on June 28, 2005; to the Committee on Environment and Public Works.

EC-2942. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenpropathrin; Re-Establishment of Tolerance for Emergency Exemption" (FRL7723-2) received on June 28, 2005; to the Committee on Environment and Public Works.

EC-2943. A communication from the Acting Director, Office of Congressional Affairs, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Public Records" (RIN3150-AH12) received on June 28, 2005; to the Committee on Environment and Public Works.

EC-2944. A communication from the Acting Director, Office of Congressional Affairs, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Export and Import of Radioactive Materials: Security Policies" (RIN3150-AH44) received on June 28, 2005; to the Committee on Environment and Public Works.

EC-2945. A communication from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting, pursuant to law, a report relative to the Flood Damage Reduction Project in Centralia and Chehalis, Lewis County, Washington; to the Committee on Environment and Public Works.

EC-2946. A communication from the Special Trustee for American Indians, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Deposit of Proceeds from Lands Withdrawn for Native Selection" (RIN1035-AA04) received on June 28, 2005; to the Committee on Indian Affairs.

EC-2947. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (1 subject on 1 disc entitled "Response to Telephone Inquiries to Commissioner Hill Regarding Recommendations in Texas") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC-2948. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with "Navy Response Regarding Relocation of Naval Submarine School from Naval Submarine Base New London, CT") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC-2949. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (1 subject on 1 disc entitled "Fort Bliss, TX Net Fires Center Concept Brief") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC-2950. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (3 subjects on 1 disc beginning with "Master Plan for Fort Knox, KY") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC-2951. A communication from the Director, Executive Office of the President, trans-

mitting, the report of proposed legislation entitled "The Government Reorganization and Program Performance Improvement Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC-2952. A communication from the General Counsel, Office of Management and Budget, transmitting, pursuant to law, the report of a rule entitled "Regulation on Maintaining Telecommunication Services During a Crisis or Emergency in Federally-owned Buildings" received on June 28, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-2953. A communication from the Chairman, Postal Rate Commission, transmitting, pursuant to law, the Annual Postal Rate Commission Report on International Mail Costs, Revenues and Volumes for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC-2954. A communication from the Investment Manager, Treasury Division, Army and Air Force Exchange Service, transmitting, pursuant to law, reports entitled "Retirement Annuity Plan for Employees of the Army and Air Force Exchange Service"; "Supplemental Deferred Compensation Plan for Members of the Executive Management Program of the Army and Air Force Exchange Service"; and "Retirement Savings Plan and Trust for Employees of the Army and Air Force Exchange Service"; to the Committee on Homeland Security and Governmental Affairs.

EC-2955. A communication from the Counsel for Legislation and Regulations, Office of the Inspector General, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Office of Inspector General (OIG) Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities" (RIN2508-AA14) received on June 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2956. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR 65) received on June 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2957. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (44 CFR 64) received on June 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2958. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination" (70 FR 30643) received on June 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2959. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR 67) received on June 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2960. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Canada; to the Committee on Banking, Housing, and Urban Affairs.

EC-2961. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant

to law, the six-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-2962. A communication from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Intermediary Relending Program Direct Final Rule" (RIN0570-AA42) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2963. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Avocados Grown in South Florida; Increased Assessment Rate" (FV05-915-1 FR) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2964. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Apricots Grown in Designed Counties in Washington; Decreased Assessment Rate" (FV05-922-1 IFR) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2965. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Almonds Grown in California; Revision to Requirements Regarding Credit for Promotion and Advertising" (FV05-981-1 IFR) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2966. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Decreased Assessment Rate" (FV05-948-2 IFR) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2967. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethyl Ether; Exemption from the Requirement of a Tolerance; Technical Correction" (FRL No. 7721-1) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2968. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Alpha-cyclodextrin, Beta-cyclodextrin, and Gamma-cyclodextrin; Exemption from the Requirement of a Tolerance" (FRL No. 7720-9) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2969. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly; Interstate Movement of Regulated Articles" (APHIS Docket No. 03-059-3) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 364. A bill to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities (Rept. No. 109-102).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nomination of Maj. Gen. Terry L. Gabreski to be Lieutenant General.

Air Force nominations beginning with Col. David G. Ehrhart and ending with Col. Richard C. Harding, which nominations were received by the Senate and appeared in the Congressional Record on June 8, 2005.

Army nomination of Lt. Gen. Walter L. Sharp to be Lieutenant General.

Army nomination of Maj. Gen. John F. Kimmons to be Lieutenant General.

Army nomination of Brig. Gen. Paulette M. Risher to be Major General.

Marine Corps nomination of Gen. Peter Pace to be General.

Navy nomination of Adm. Edmund P. Giambastiani, Jr. to be Admiral.

Navy nomination of Vice Adm. Albert M. Calland III to be Vice Admiral.

Navy nomination of Rear Adm. Paul E. Sullivan to be Vice Admiral.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MARTINEZ:

S. 1386. A bill to exclude from consideration as income certain payments under the national flood insurance program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CHAFEE (for himself, Mr. KERRY, Mr. KENNEDY, and Mr. REED):

S. 1387. A bill to provide for an update of the Cultural Heritage and Land Management Plan for the John H. Chafee Blackstone River Valley National Heritage Corridor, to extend the authority of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission, to authorize the undertaking of a special resource study of sites and landscape features within the Corridor, and to authorize additional appropriations for the Corridor; to the Committee on Energy and Natural Resources.

By Mr. SNOWE:

S. 1388. A bill to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, and Mr. KYL):

S. 1389. A bill to reauthorize and improve the USA PATRIOT Act; to the Committee on the Judiciary.

By Mr. INOUE (for himself and Mr. SUNUNU):

S. 1390. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. JEFFORDS, Mrs. BOXER, Mr.

KERRY, Mr. CORZINE, Mrs. CLINTON, and Mr. KENNEDY):

S. 1391. A bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances; to the Committee on Environment and Public Works.

By Mr. SMITH (for himself and Mr. DORGAN):

S. 1392. A bill to reauthorize the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER:

S. 1393. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for reimbursement of certain for-profit hospitals; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SMITH (for himself, Mr. KYL, Mr. COBURN, Mr. INHOFE, and Mr. VITTER):

S. 1394. A bill to reform the United Nations, and for other purposes; read the first time.

By Mr. HATCH (for himself and Mr. BIDEN):

S. 1395. A bill to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself and Mr. CRAPO):

S. Res. 197. A resolution to commemorate the 60th Anniversary of the Trinity Test, the culmination of the Manhattan Project, and to honor the people who made it possible; to the Committee on Energy and Natural Resources.

#### ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 58

At the request of Mr. INOUE, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 119

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 151

At the request of Mr. COLEMAN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 309

At the request of Mr. DEMINT, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Oregon (Mr. WYDEN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 424

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 467

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 559

At the request of Mr. BIDEN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 611

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 611, a bill to establish a Federal

Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on emergency Medical Services Advisory Council, and for other purposes.

S. 629

At the request of Mr. BYRD, his name was added as a cosponsor of S. 629, a bill to amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems.

At the request of Mr. SESSIONS, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 629, *supra*.

S. 642

At the request of Mr. HATCH, his name was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 676

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 676, a bill to provide for Project GRAD programs, and for other purposes.

S. 776

At the request of Mr. JOHNSON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 784

At the request of Mr. THOMAS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 784, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 1010

At the request of Mr. SANTORUM, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1010, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from Oregon (Mr. WYDEN), the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mr. PRYOR), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD), the Senator from New Jersey (Mr. CORZINE), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Maine (Ms. SNOWE), the Senator from Ohio (Mr. DEWINE) and the Senator from Oregon (Mr.

SMITH) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the \$1 coin, to create a new bullion coin, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1076

At the request of Mrs. LINCOLN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1076, a bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel.

S. 1082

At the request of Mrs. HUTCHISON, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1103

At the request of Mr. BAUCUS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1103, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. 1171

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1171, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes.

S. 1180

At the request of Mr. OBAMA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1180, a bill to amend title 38, United States Code, to reauthorize various programs servicing the needs of homeless veterans for fiscal years 2007 through 2011, and for other purposes.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1240

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1240, a bill to amend the Internal Revenue Code of 1986 to allow an investment tax credit for the purchase of trucks with new diesel engine technologies, and for other purposes.

S. 1265

At the request of Mr. VOINOVICH, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 1265, a bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines.

S. 1283

At the request of Mrs. CLINTON, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1283, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1355

At the request of Mr. ENZI, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 1355, a bill to enhance the adoption of health information technology and to improve the quality and reduce the costs of healthcare in the United States.

S. 1367

At the request of Mr. ALEXANDER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

S. 1371

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1371, a bill to extend the termination date of Office of the Special Inspector General of Iraq Reconstruction and provide additional funds for the Office, and for other purposes.

S. 1379

At the request of Mr. MCCAIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1379, a bill to provide increased rail transportation security.

S. RES. 77

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 77, a resolution condemning all acts of terrorism in Lebanon and calling for the removal of Syrian troops from Lebanon and supporting the people of Lebanon in their quest for a truly democratic form of government.

S. RES. 121

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr.

ISAKSON) was added as a cosponsor of S. Res. 121, a resolution supporting May 2005 as "National Better Hearing and Speech Month" and commending those states that have implemented routine hearing screening for every newborn before the newborn leaves the hospital.

S. RES. 173

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 173, a resolution expressing support for the Good Friday Agreement of 1998 as the blueprint for lasting peace in Northern Ireland.

At the request of Mr. HARKIN, his name was added as a cosponsor of S. Res. 173, *supra*.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

AMENDMENT NO. 1075

At the request of Mr. HAGEL, his name was added as a cosponsor of amendment No. 1075 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. VOINOVICH, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Virginia (Mr. ALLEN), the Senator from Washington (Ms. CANTWELL), the Senator from Montana (Mr. BAUCUS), the Senator from Vermont (Mr. JEFFORDS), the Senator from Maine (Ms. SNOWE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1075 proposed to H.R. 2360, *supra*.

AMENDMENT NO. 1112

At the request of Mr. AKAKA, the names of the Senator from New York (Mrs. CLINTON), the Senator from Washington (Ms. CANTWELL), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 1112 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1113

At the request of Mr. AKAKA, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New York (Mrs. CLINTON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 1113 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1120

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1120 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1124

At the request of Mr. ENSIGN, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN) and the Senator from Arizona (Mr. KYL) were added as cosponsors of amendment No. 1124 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1125

At the request of Mr. PRYOR, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 1125 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1126

At the request of Mr. BIDEN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from West Virginia (Mr. BYRD), the Senator from New Jersey (Mr. CORZINE), the Senator from Minnesota (Mr. DAYTON), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 1126 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1128

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1128 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1139

At the request of Mr. SESSIONS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No. 1139 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1140

At the request of Mr. SESSIONS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of

amendment No. 1140 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1142

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 1142 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1161

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 1161 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1162

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 1162 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1181

At the request of Mr. BIDEN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 1181 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1184

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1184 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1189

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1189 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1190

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1190 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1191

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1191 intended to be proposed to H.R. 2360, a bill making ap-

propriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1192

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1192 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1194

At the request of Mr. NELSON of Florida, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1194 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1206

At the request of Mr. SARBANES, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1206 intended to be proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1207

At the request of Mr. SALAZAR, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1207 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1209

At the request of Mr. SALAZAR, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 1209 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1210

At the request of Mr. SALAZAR, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1210 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1217

At the request of Ms. STABENOW, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. DODD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1217 proposed to H.R. 2360, a bill making appropriations for the Department of Homeland Security

for the fiscal year ending September 30, 2006, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1388. A bill to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. SNOWE. Mr. President, as Chair of the Senate Committee on Small Business and Entrepreneurship, I have fought to ensure that small businesses across the country are treated fairly by Federal Government regulations. Unfortunately, in far too many cases, Federal agencies promulgate regulations without adequately addressing the economic impacts on small businesses.

The Regulatory Flexibility Act, RFA, was enacted in 1980 and requires Federal Government agencies to propose rules that keep the regulatory burden at a minimum on small businesses. The RFA requires agencies to analyze the economic impact of proposed regulations when there is likely to be a significant economic impact on a substantial number of small entities.

In 1996, I was pleased to support, along with all of my colleagues, the Small Business Regulatory Enforcement Fairness Act, SBREFA, which amended the RFA. The intent of SBREFA was to further curtail the impact of burdensome or duplicative regulations on small businesses, by clarifying key RFA requirements. In September we will celebrate the 25th Anniversary of the RFA—a law that is largely working as Congress intended.

Unfortunately, there remain a number of loopholes in the RFA that undermine its effectiveness in reducing these regulatory burdens. To close these loopholes, today I introduce the Regulatory Flexibility Reform Act of 2005, RFRFA. This bill would ensure that Federal agencies conduct a complete analysis of the impacts of Federal regulations, thereby providing small businesses, which represent more than 99 percent of all firms in America and provide up to 75 percent of new jobs each year, with much needed regulatory relief.

Under my legislation agencies must consider the indirect effects of an "economic impact." Rules with indirect effects are currently exempt from RFA coverage according to well-established case law. This has serious consequences for small businesses. It means a Federal agency can avoid the various analyses required under the RFA by either requiring the States to regulate small entities or regulating an industry so rigorously that it has a negative trickle down impact on other industries.

For example, rules can regulate a handful of large manufacturers in the



same industry. Yet, a foreseeable, indirect effect of these rules—not presently considered under RFA analyses—is that small distributors would no longer have the right to sell the product produced by the larger manufacturers. In one case 100,000 small distributors were prevented from distributing their products.

This indirect economic effect had a significant impact on a substantial number of small businesses because their ability to compete in the marketplace—and create jobs—has and will continue to be harmed.

In addition, this large loophole amounts to an “unfunded mandate” because many States do not have a requirement to conduct an RFA-type analysis of regulations. And even when there is such a statute on the books, those States frequently do not have the resources to conduct the analysis themselves. Worse still, for States with no requirement to conduct RFA-type analyses, the impact of the Federal regulation upon small businesses is never properly assessed either at the Federal or State level.

This situation demands reform.

Second, my legislation requires Federal agencies to consider comments provided by the Small Business Administration's Office of Advocacy. The SBA's Office of Advocacy does not receive the public attention it deserves. It should. In case after case it has been the last, best hope for small businesses faced with burdensome, duplicative and nonsensical Federal regulations.

The Office of Advocacy serves two critical roles: No. 1, it represents small business' interests before the Federal government in regulatory matters, and No. 2, it conducts valuable research to further our understanding of the importance of small businesses and their job creating potential in our economy.

My legislation would also amend the RFA to include a provision for agencies to specifically respond to comments filed by the Chief Counsel for Advocacy. Codifying this necessary change would ensure that agencies give the proper deference to the Office of Advocacy, and hence, to the comments and concerns of small businesses. This is a straightforward and simple reform that could have major benefits.

Finally, the RFRA would clarify the circumstances for a periodic review of Federal rules. If there is a significant impact on a substantial number of small entities, a review would be required. It would also clarify the requirement that agencies review all 10-year-old rules to avoid confusion over which rules to review. In addition, agencies would be required to review rules every 10 years and not just the first 10 years. That's because rules can have unintended and negative consequences in our changing global, information-age economy.

This legislation is absolutely necessary. I urge my colleagues to support my bill so we can ensure that our Nation's small businesses and their em-

ployees are provided with much needed regulatory relief.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1388

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Regulatory Flexibility Reform Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Clarification and expansion of rules covered by the Regulatory Flexibility Act.

Sec. 4. Requirements providing for more detailed analyses.

Sec. 5. Periodic review of rules.

Sec. 6. Clerical amendments.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, even though the problems sought to be solved by such regulations are not always caused by these small businesses and other small entities.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but have failed to do so.

(5) Alternative regulatory approaches that do not conflict with the stated objectives of the statutes the regulations seek to implement may be available and may minimize the significant economic impact of regulations on small businesses and other small entities.

(6) Federal agencies have failed to analyze and uncover less-costly alternative regulatory approaches, despite the fact that the chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), requires them to do so.

(7) Federal agencies continue to interpret chapter 6 of title 5, United States Code, in a manner that permits them to avoid their analytical responsibilities.

(8) The existing oversight of the compliance of Federal agencies with the analytical requirements to assess regulatory impacts on small businesses and other small entities and obtain input from the Chief Counsel for Advocacy has not sufficiently modified the Federal agency regulatory culture.

(9) Significant changes are needed in the methods by which Federal agencies develop and analyze regulations, receive input from affected entities, and develop regulatory alternatives that will lessen the burden or maximize the benefits of final rules to small businesses and other small entities.

(10) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during

the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences or enhance economic benefits.

(11) Federal agencies should be capable of assessing the impact of proposed and final rules without delaying the regulatory process or impinging on the ability of Federal agencies to fulfill their statutory mandates.

#### SEC. 3. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

“(9) ECONOMIC IMPACT.—The term ‘economic impact’ means, with respect to a proposed or final rule—

“(A) any direct economic effect on small entities of such rule; and

“(B) any indirect economic effect on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).”.

#### SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

“(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

“(1) describing the reasons why action by the agency is being considered;

“(2) describing the objectives of, and legal basis for, the proposed rule;

“(3) estimating the number and type of small entities to which the proposed rule will apply;

“(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

“(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

“(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available.”; and

(2) by adding at the end the following:

“(d) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities either—

“(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs at the Office of Management and Budget under Executive Order 12866, if that order requires such submission; or

“(2) if no submission to the Office of Information and Regulatory Affairs is so required, at a reasonable time prior to publication of the rule by the agency.”.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking “succinct”;

(B) in paragraph (2), by striking “summary” each place it appears and inserting “statement”;

(C) in paragraph (3), by—

(i) striking “an explanation” and inserting “a detailed explanation”; and

(ii) inserting “detailed” before “description”;

(D) in paragraph (4), by inserting “detailed” before “description”; and

(E) in paragraph (5), by inserting “detailed” before “description”.

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Section 604(a)(2) of title 5, United States Code, is amended by inserting “(or certification of the proposed rule under section 605(b))” after “initial regulatory flexibility analysis”.

(3) INCLUSION OF RESPONSE TO COMMENTS FILED BY CHIEF COUNSEL FOR ADVOCACY.—Section 604(a) of title 5, United States Code, is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and inserting after paragraph (2) the following:

“(3) the agency’s response to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any changes made to the proposed rule in the final rule as a result of such comments;”.

(4) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

“(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the agency’s Web site, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof that includes the telephone number, mailing address, and link to the Web site where the complete analysis may be obtained.”.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

“(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis that is required by any other law and which satisfies such requirement.”.

(d) CERTIFICATIONS.—The second sentence of section 605(b) of title 5, United States Code, is amended—

(1) by inserting “detailed” before “statement”; and

(2) by inserting “and legal” after “factual”.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

#### “§ 607. Quantification requirements

“In complying with sections 603 and 604, an agency shall provide—

“(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

“(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.”.

#### SEC. 5. PERIODIC REVIEW OF RULES.

Section 610 of title 5, United States Code, is amended to read as follows:

#### “§ 610. Periodic review of rules

“(a) Not later than 180 days after the enactment of the Regulatory Flexibility Reform Act of 2005, each agency shall publish in the Federal Register and place on its Web site a plan for the periodic review of rules issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine

whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently placing the amended plan on the agency’s Web site.

“(b) The plan shall provide for the review of all such agency rules existing on the date of the enactment of the Regulatory Flexibility Reform Act of 2005 within 10 years after the date of publication of the plan in the Federal Register and every 10 years thereafter and for review of rules adopted after the date of enactment of the Regulatory Flexibility Reform Act of 2005 within 10 years after the publication of the final rule in the Federal Register and every 10 years thereafter. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy and Congress.

“(c) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to Congress and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44, United States Code), to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (d) and a detailed explanation of the reasons for such determination.

“(d) In reviewing rules under such plan, the agency shall consider—

“(1) the continued need for the rule;

“(2) the nature of complaints received by the agency from small entities concerning the rule;

“(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy;

“(4) the complexity of the rule;

“(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

“(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such calculations cannot be made and reports that determination in the annual report required under subsection (c);

“(7) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

“(8) the current impact of the rule, including—

“(A) the number of small entities to which the rule will apply; and

“(B) the projected reporting, record-keeping and other compliance requirements of the proposed rule, including—

“(i) an estimate of the classes of small entities that will be subject to the requirement; and

“(ii) the type of professional skills necessary for preparation of the report or record.

“(e) The agency shall publish in the Federal Register and on its Web site a list of

rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.”.

#### SEC. 6. CLERICAL AMENDMENTS.

(a) IN GENERAL.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking “(1) the term” and inserting the following:

“(1) AGENCY.—The term”;

(2) in paragraph (2)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking “(2) the term” and inserting the following:

“(2) RULE.—The term”;

(3) in paragraph (3)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking “(3) the term” and inserting the following:

“(3) SMALL BUSINESS.—The term”;

(4) in paragraph (4)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking “(4) the term” and inserting the following:

“(4) SMALL ORGANIZATIONS.—The term”;

(5) in paragraph (5)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking “(5) the term” and inserting the following:

“(5) SMALL GOVERNMENTAL JURISDICTION.—The term”;

(6) in paragraph (6)—

(A) by striking “; and” and inserting a period; and

(B) by striking “(6) the term” and inserting the following:

“(6) SMALL ENTITY.—The term”;

(7) in paragraph (7), by striking “(7) the term” and inserting the following:

“(7) COLLECTION OF INFORMATION.—The term”; and

(8) in the matter preceding paragraph (1), by striking “chapter—” and inserting “chapter, the following definitions apply:”.

(b) HEADING.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

#### “§ 605. Incorporations by reference and certifications”.

(c) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

“605. Incorporations by reference and certifications.”; and

(2) by striking the item relating to section 607 and inserting the following:

“607. Quantification requirements.”.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, and Mr. KYL):

S. 1389. A bill to reauthorize and improve the USA PATRIOT Act; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce, along with my colleagues Senator FEINSTEIN and Senator KYL, the USA PATRIOT Improvement and Reauthorization Act of

2005, a bipartisan bill to reauthorize provisions of the landmark anti-terrorism legislation we adopted in the wake of September 11, 2001. We continue to give tools to law enforcement to protect our security; and, at the same time, we make important improvements to the law to ensure greater protection of civil liberties and to require greater accountability through enhanced reporting and oversight.

In recent months, the political rhetoric about the PATRIOT Act has reached a fever pitch. Not surprisingly, however, the reality fails to match the rhetoric. As the Washington Post has editorialized, “[a]lthough the PATRIOT Act has become a catch phrase for civil liberties anxieties, it in fact has little connection to the most serious infringements on civil liberties in the war on terrorism.” At the same time, it would be unwise to credit the act with all of our hard-won successes in the effort to combat terror. As evidenced by the grisly attacks in London last week, no law or surveillance regime can prevent every terrorist attack.

Nevertheless, as last week’s attacks remind us, the danger of international terrorism remains real, and has not abated in the years since 9/11. So, we must remain vigilant, and we must be cautious not to recreate the legal circumstances that arguably contributed to significant intelligence failures before 9/11. Reauthorizing the PATRIOT Act, while incorporating improvements designed to safeguard our liberties and enhance oversight, is the right thing to do. To quote the Post again, “there is little evidence of abuse—and considerable evidence that the law has facilitated needed cooperation. Based on what’s known, it merits reauthorization with minor modifications.”

The bill we introduce today is the result of careful consideration. We have listened both to the concerns of critics and the arguments of the administration. We have probed and prodded both for information. And, we have consulted with both sides of the political aisle to fashion language designed to maintain the Government’s ability to effectively investigate—and hopefully preempt—terrorist attacks, while making changes to reassure the American people that the law will be used responsibly, consistent with the rights enshrined in our Constitution.

Mr. President, I would like to focus on the changes we have made to those PATRIOT Act provisions that have generated the most controversy.

The PATRIOT Act modified electronic surveillance authority under the Foreign Intelligence Surveillance Act of 1978, or FISA, to permit multipoint wiretaps of suspected terrorists or spies; but only upon a judicial finding of probable cause to believe the target is an agent of a foreign power and a further finding that the target’s actions could thwart efforts to identify a single phone company or similar communications provider upon whom to

serve the order. The principle behind this authority, which parallels similar authority in the criminal law, is that surveillance of a suspected terrorist or spy should be permitted to continue, uninterrupted, when the target changes phones. By definition, a multipoint wiretap order does not identify the specific phone to be tapped, because the order allows the Government to track the person not a single device. This was a change made necessary by the advent of cell phones, which are easily purchased and then discarded. After passage of the PATRIOT Act, however, this authority was further modified, so that a FISA surveillance order only had to specify the identity of the target “if known.” If the identity was unknown, the order had to include a “description of the target,” but there was no further requirement about how detailed the description of such “John Doe” targets had to be—raising concerns that the Government could conduct roving surveillance of a broadly described target. Our bill corrects this shortcoming and makes other improvements to the roving authority under FISA.

First, the bill responds to concerns that so-called John Doe roving wiretaps could be used against someone described generically as a “Middle Eastern male” or “Hispanic female” by requiring such orders to include “sufficient information to describe a specific target with particularity.” This makes it clear that, although such orders may “rove” from one phone to another when the target changes devices, the Government cannot “rove” from one investigative target to another, seeking to identify the right person. Through this change, we avoid rewarding terrorists or spies who successfully conceal their identities, but we also protect innocent Americans from unwarranted surveillance.

The bill further minimizes the chance that “roving” wiretaps could be used indiscriminately against multiple devices by requiring the Government to notify the court every time it begins surveillance of a new device. This notice must be made within 10 days of the initiation of surveillance, and must include a description of the new device, as well as the “facts and circumstances” indicating that each new phone or similar device is “being used, or is about to be used,” by the target. The notice must also update the techniques being used to minimize the interception and retention of unrelated communications. Finally, the bill adds new reporting requirements and extends the sunset date until December 31, 2009, allowing Congress to revisit the need for this surveillance tool.

I would next like to turn to the bill’s modification of section 215 of the PATRIOT Act, perhaps the most controversial provision of the act, and one that is frequently misidentified as the “library” provision.

Prior to the PATRIOT Act, FISA authorized the FBI to obtain orders for

the production of certain types of business records, including those of hotels, car rental agencies and storage facilities, in limited circumstances. Under the pre-PATRIOT standard, however, the FBI could not even seek the records of someone observed in the presence of a suspected spy or terrorist, unless it had specific reasons to suspect the associate was himself a spy or terrorist. Strangely, this standard was significantly higher than the standard applicable to similar records requests in criminal cases. Accordingly, section 215 of the PATRIOT Act amended FISA to permit orders for any records or tangible things sought in connection with an authorized investigation to obtain foreign intelligence not concerning a U.S. person or to protect against international terrorism or clandestine intelligence activities.

As enacted, however, section 215 did not require the FBI to establish the factual basis for the requested order. According to critics, section 215 rendered the FISA court little more than a rubber stamp for the Government’s requests. Moreover, section 215 included no explicit right for recipients to confer with legal counsel. And, despite oft-repeated comparisons to grand jury subpoenas, orders under section 215 included no explicit right to judicial review akin to a motion to quash a subpoena. Indeed, in testimony before the Judiciary Committee earlier this year, Attorney General Gonzales conceded these shortcomings in the law, and expressed a new willingness to consider modifications of section 215.

Our bill addresses these issues, and adds still more protections to ensure the provision is used responsibly. First, the bill eliminates the mere certification of relevance required by current law and enhances the factual showing that must be made by the Government to obtain records. It also requires the court to agree with the adequacy of the Government’s factual showing, and adds several procedural protections including heightened approval requirements and increased reporting for orders seeking sensitive materials, like library or medical records. Specifically, the bill requires the Government to submit “a statement of facts” showing “reasonable grounds to believe that the records or other things sought are relevant” to an authorized investigation. The bill then addresses concerns about the FISA judge acting as a “rubber stamp” by requiring the court to find that the facts establish “reasonable grounds to believe” the items sought are relevant. The bill also adds an explicit right to consult counsel; provides for judicial review; requires approval of the FBI Director or Deputy Director for orders concerning library records and other sensitive materials; and adds annual reports to Congress regarding use of the provision to obtain library records, book sales records, firearms sales records, health information or tax information. This reporting feature is important because it enables

the Congress to monitor the Justice Department's activities.

In addition to the foregoing, the bill also requires an annual report on the number of times FISA orders for records and tangible things have been issued, modified, or denied. At our April 5 hearing, the Attorney General declassified the fact that, as of March 30, 2005, the FISA court had "granted the department's request for a 215 order 35 times." He further noted that section 215 had not been used to obtain library or bookstore records, medical records or gun sale records. According to the Attorney General, section 215 had been used only to obtain driver's license records, public accommodation records, apartment leasing records, credit card records and subscriber information, such as names and addresses for telephone numbers captured through court-authorized pen register devices. It is our hope that regular public reporting, together with enhanced congressional reporting, will bolster public confidence in the law without compromising sensitive investigations. Finally, as with the multipoint surveillance authority, we have extended the sunset date for section 215 of the PATRIOT Act until December 31, 2009, so Congress must revisit the continuing need for this tool.

Another PATRIOT Act provision that has inspired significant criticism is section 213 of the act, which authorized delayed notice or so-called sneak & peek search warrants. Unlike the other sections I have discussed, section 213 is not scheduled to sunset later this year. Nevertheless, in recognition of the concerns raised about this provision, we have made several changes to this authority as well.

Prior to the PATRIOT Act, three Federal circuits had approved the practice of delayed notice search warrants. Supreme Court precedent also supported the legality of judicially authorized covert entries. Indeed, in *Dalia v. United States*, a 1979 case involving the analogous situation of a covert entry to install a listening device, the Supreme Court described as "frivolous" the argument that "covert entries are unconstitutional for their lack of notice." Nevertheless, in the 1995 case of *Wilson v. Arkansas*, which focused on whether officers must "knock and announce" their presence before serving a warrant, the Court held that, "in some circumstances an officer's unannounced entry into a home might be unreasonable under the Fourth Amendment." But, the Court did not address sneak and peek warrants directly, and it left "to the lower courts the task of determining the circumstances under which an unannounced entry is reasonable under the Fourth Amendment."

The PATRIOT Act sought to create a unified standard for delayed notice searches. Under the PATRIOT Act, notice of a search may be delayed if a court finds reasonable cause to believe immediate notice may have an adverse

result, including: (A) endangering the life or physical safety of an individual; (B) flight from prosecution; (C) destruction of, or tampering with, evidence; (D) intimidation of potential witnesses; or (E) otherwise seriously jeopardizing an investigation or unduly delaying a trial. Notice must be provided within a "reasonable period" of time, which may be extended for good cause. As noted by critics, however, the period of delay could be indefinite. And, in at least six instances reported by the Department of Justice, courts have authorized unspecified periods of delay—such as delays until the conclusion of an investigation.

Over the last 3 months, at the Judiciary Committee's request, the Department of Justice has furnished new information about its use of delayed notice search warrants. This data shows that delayed notice warrants account for less than 0.2 percent of the warrants handled by Federal district courts. Moreover, delayed notice warrants based solely on seriously jeopardizing an investigation account for less than 1 in every 1,500 warrants—mitigating concerns that the "catch-all" provision is being overused. DOJ has also now supplied summaries of 15 cases—out of a total of 22 where the delay was based solely on the "catch-all." In these cases, the delay was based on the substantial risk of comprising a title III wiretap or frustrating efforts to identify the full scope of a complex criminal enterprise. Accordingly, the draft bill does not eliminate seriously jeopardizing an investigation as a basis for delay. Instead, the bill enhances reporting requirements—including the addition of new public reporting requirements—to ensure that DOJ continues to use this authority responsibly. The bill also requires the court to set a "date certain" for notice to be provided, eliminating concerns about indefinite delays. The bill permits extensions of the delay period, but requires that extensions be granted only "upon an updated showing of the need for further delay." Finally, the bill limits extensions to 90 days each, which parallels the notice requirements for criminal wiretaps and "bugs" which are arguably more invasive than a one-time search, because they may require covert entries and they continue to collect personal data for extended periods of time.

As these changes illustrate, while reauthorizing the PATRIOT Act, we have emphasized enhanced oversight through reporting. This bill adds reporting requirements to several PATRIOT provisions, including the aforementioned public reporting on delayed notice search warrants and FISA business records orders. The bill also adds public reporting on FISA pen registers and the emergency authorization of FISA electronic surveillance. Moreover, throughout FISA, the draft bill adds the Senate and House Judiciary Committees to reporting provisions currently limited to the Senate and House Intelligence Committees.

In addition, we have made adjustments to other provisions of the PATRIOT Act. These include:

Section 203, sharing criminal information with intelligence agencies: The bill requires notice to the authorizing court when foreign intelligence information gathered via a court-authorized criminal wiretap is disclosed to intelligence agencies.

Section 207, Duration of FISA surveillance of non-U.S. persons: The bill extends surveillance periods for non-U.S. persons under FISA, 120 days for original orders, and up to 1 year for extensions. Also, it extends the duration of FISA pen registers for non-U.S. persons, up to 1 year.

Section 212, emergency disclosure of electronic communications: The bill adds new reporting requirements to ensure the government is using this authority appropriately. The bill also makes technical corrections to harmonize the language permitting the emergency disclosure of contents and records.

Section 505, national security letters: The bill incorporates legislation introduced by Senator CORNYN to address a 2004 Federal district court decision holding a national security letter, or NSL, served on an Internet service provider unconstitutional. This legislation permits disclosure to legal counsel; allows court challenges; and permits judicial enforcement of NSLs.

Sunsets: As I have noted, the bill retains sunsets for PATRIOT sections 206, multi-point wiretaps, and 215, FISA orders for business records and tangible things. The bill also extends the sunset date for the "Lone Wolf" provision added to FISA by last year's Intelligence Reform and Terrorism Prevention Act until December 31, 2009.

Taken together, these changes provide important checks on the governmental authorities contained in the PATRIOT Act. At the same time, these amendments honor President Bush's call for Congress to reauthorize the act without weakening the tools used to combat terrorism. I am pleased to be joined by Senators FEINSTEIN and KYL in introducing this measure, and I look forward to securing the support of other Judiciary Committee members as we move to consider this bill.

Mr. President, I would ask that the Washington Post editorial mentioned in my remarks, as well as three letters from the Department of Justice on the use of delayed notice warrants, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 13, 2005]

#### PATRIOT SECOND ACT

Congress passed the USA Patriot Act in haste after the Sept. 11, 2001, attacks. Critics predicted that the act would deal a blow to liberty, while proponents insisted it was essential to the fight against al Qaeda. A wise compromise gave the administration new powers but had them expire at the end of 2005, giving Congress a chance to take a second look. Consequently, various congressional committees are considering whether

the Patriot Act should be reauthorized, rolled back or expanded—and whether this time it should be made permanent, as the administration wishes, or renewed only temporarily.

Although the Patriot Act has become a catch phrase for civil liberties anxieties, it in fact has little connection to the most serious infringements on civil liberties in the war on terrorism. It has nothing to do with the detention of Americans as enemy combatants, the abuse of prisoners captured abroad or the roundup of foreigners for minor immigration violations. The law's key sections were designed to expand investigative powers in national security cases and permit more information-sharing between intelligence and law enforcement agencies. These have sparked controversy more because of abuses they might permit than because of anything that is known to have happened. Indeed, there is little evidence of abuse—and considerable evidence that the law has facilitated needed cooperation. Based on what's known, it merits reauthorization with minor modifications.

But first more ought to be known. Far from regularly releasing information about its use of the law, the administration has generally hidden even basic information—only to release it when politically convenient. Neither in the Patriot Act nor in the surveillance statute it amended did Congress require the sort of routine public reporting that would offer Americans a useful ongoing sense of the law in operation. And while the administration has, in recent months, released a good deal of information to support its request for reauthorization, the public still lacks a full picture. Before reauthorizing the Patriot Act, Congress needs to demand and release sufficient information. And in revising the law, Congress should make it more transparent, so the public is not at the mercy of the administration's sense of openness.

Nor should reauthorization be permanent. Knowing it had to return to Congress for reauthorization was one of the few incentives for the administration to release information; it's useful to maintain that incentive. And it's not overly burdensome to ask the executive branch to periodically justify its need for such powerful investigative tools.

Finally, the Senate intelligence committee has included as part of its reauthorization package a broad authority for the FBI to collect information from businesses in intelligence matters using an administrative subpoena the FBI can issue on its own. This should not become law. Administrative subpoenas make sense in regulatory matters have made their way into certain criminal and security investigations. But the Justice Department already can get the records it needs using the traditional, wide-ranging investigative powers of the grand jury or another provision of the Patriot Act. Administrative subpoenas are more secretive than grand jury subpoenas, and they involve less scrutiny from prosecutors; they strip away a layer of oversight. The administration may well make a persuasive case for Patriot Act renewal, with increased oversight. But this particular power should not be granted.

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, Apr. 4, 2005.

Hon. ARLEN SPECTER,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We have indicated in some of our responses to questions for the record, including those recently submitted on April 1, 2005, that we would supplement our responses to some questions. This letter is intended to supplement previous informa-

tion we have provided regarding the usage of section 213 of the USA PATRIOT Act ("the Act"), relating to delayed-notice search warrants. We believe the information contained herein completely answers all the Committee's questions submitted to date regarding section 213 and we look forward to working with you on this and other issues related to the reauthorization of the USA PATRIOT Act.

As you know, the Department of Justice believes very strongly that section 213 is an invaluable tool in the war on terror and our efforts to combat serious criminal conduct. In passing the USA PATRIOT Act, Congress recognized that delayed-notice search warrants are a vital aspect of the Department's strategy of prevention; detecting and incapacitating terrorists, drug dealers and other criminals before they can harm our nation. Codified at 18 U.S.C. § 3103a, section 213 of the Act created an explicit statutory authority for investigators and prosecutors to ask a court for permission to delay temporarily notice that a search warrant was executed. While not scheduled to sunset on December 31, 2005, section 213 has been the subject of criticism and various legislative proposals. For the following reasons, the Department does not believe any modifications to section 213 are required.

To begin with, delayed-notice search warrants have been used by law enforcement officers for decades. Such warrants were not created by the USA PATRIOT Act. Rather, the Act simply codified a common-law practice recognized by courts across the country. Section 213 simply created a uniform nationwide standard for the issuance of those warrants, thus ensuring that delayed-notice search warrants are evaluated under the same criteria across the nation. Like any other search warrant, a delayed-notice search warrant is issued by a federal judge only upon a showing that there is probable cause to believe that the property to be searched for or seized constitutes evidence of a criminal offense. A delayed-notice warrant differs from an ordinary search warrant only in that the judge specifically authorizes the law enforcement officers executing the warrant to wait for a limited period of time before notifying the subject of the search that a search was executed.

In addition, investigators and prosecutors seeking a judge's approval to delay notification must show that, if notification were made contemporaneous to the search, there is reasonable cause to believe one of the following might occur: (1) notification would endanger the life or physical safety of an individual; (2) notification would cause flight from prosecution; (3) notification would result in destruction of, or tampering with, evidence; (4) notification would result in intimidation of potential witnesses; or (5) notification would cause serious jeopardy to an investigation or unduly delay a trial.

To be clear, it is only in these five tailored circumstances that the Department may request judicial approval to delay notification, and a federal judge must agree with the Department's evaluation before approving any delay.

Delayed-notice search warrants provide a crucial option to law enforcement. If immediate notification were required regardless of the circumstances, law enforcement officials would be too often forced into making a "Hobson's choice": delaying the urgent need to conduct a search and/or seizure or conducting the search and prematurely notifying the target of the existence of law enforcement interest in his or her illegal conduct and undermine the equally pressing need to keep the ongoing investigation confidential.

A prime example in which a delayed-notice search warrant was executed is Operation

Candy Box. This operation was a complex multi-year, multi-country, multi-agency investigative effort by the Organized Crime Drug Enforcement Task Force, involving the illegal trafficking and distribution of both MDMA (also known as Ecstasy) and BC bud (a potent and expensive strain of marijuana). The delayed-notice search warrant used in the investigation was obtained on the grounds that notice would cause serious jeopardy to the investigation (see 18 U.S.C. § 2705(a)(2) (E)).

In 2004, investigators learned that an automobile loaded with a large quantity of Ecstasy would be crossing the U.S.-Canadian border en route to Florida. On March 5, 2004, after the suspect vehicle crossed into the United States near Buffalo, Drug Enforcement Administration (DEA) Special Agents followed the vehicle until the driver stopped at a restaurant. One agent then used a duplicate key to enter the vehicle and drive away while other agents spread broken glass in the parking space to create the impression that the vehicle had been stolen. The ruse worked, and the drug traffickers were not tipped off that the DEA had seized their drugs. A subsequent search of the vehicle revealed a hidden compartment containing 30,000 MDMA tablets and ten pounds of BC bud Operation Candy Box was able to continue because agents were able to delay notification of the search for more than three weeks.

On March 31, 2004, in a two-nation crackdown the Department notified the owner of the car of the seizure and likewise arrested more than 130 individuals. Ultimately, Operation Candy Box resulted in approximately 212 arrests and the seizure of \$8,995,811 in U.S. currency, 1,546 pounds of MDMA powder, 409,300 MDMA tablets, 1,976 pounds of marijuana, 6.5 pounds of methamphetamine, jewelry valued at \$174,000.38 vehicles, and 62 weapons. By any measure, Operation Candy Box seriously disrupted the Ecstasy market in the United States and made MDMA pills less potent, more expensive and harder to find. There has been a sustained nationwide eight percent per pill price increase since the culmination of Operation Candy Box; a permanent decrease of average purity per pill to the lowest levels since 1996; and currency seizures have denied traffickers access to critical resources—preventing the distribution of between 17 and 34 million additional Ecstasy pills to our Nation's children.

Had Operation Candy Box agents, however, been required to provide immediate notification of the search of the car and seizure of the drugs, they would have prematurely revealed the existence of and thus seriously jeopardized the ultimate success of this massive long-term investigation. The dilemma faced by investigators in the absence of delayed notification is even more acute in terrorism investigations where the slightest indication of governmental interest can lead a loosely connected cell to dissolve. Fortunately though, because delayed-notice search warrants are available, investigators do not have to choose between pursuing terrorists or criminals and protecting the public—we can do both.

It is important to stress that in all circumstances the subject of a criminal search warrant is informed of the search. It is simply false to suggest, as some have, that delayed-notice search warrants allow the government to search an individual's "houses, papers, and effects" without notifying them of the search. In every case where the government executes a criminal search warrant, including those issued pursuant to section 213, the subject of the search is told of the search. With respect to delayed-notice search warrants, such notice is simply delayed for a reasonable period of time—a time period defined by a Federal judge.

Delayed-notice search warrants are constitutional and do not violate the Fourth Amendment. The U.S. Supreme Court expressly held in *Dalia v. United States* that the Fourth Amendment does not require law enforcement to give immediate notice of the execution of a search warrant. Since *Dalia*, three Federal courts of appeals have considered the constitutionality of delayed-notice search warrants, and all three have upheld their constitutionality. To our knowledge, no court has ever held otherwise. In short, long before the enactment of the USA PATRIOT Act, it was clear that delayed notification was appropriate in certain circumstances; that remains true today. The USA PATRIOT Act simply resolved the mix of inconsistent rules, practices and court decisions varying from circuit to circuit. Therefore, section 213 had the beneficial impact of mandating uniform and equitable application of the authority across the Nation.

The Committee has requested detailed information regarding how often section 213 has been used. Let us assure you that the use of a delayed-notice search warrant is the exception, not the rule. Law enforcement agents and investigators provide immediate notice of a search warrant's execution in the vast majority of cases. According to Administrative Office of the U.S. Courts (AOUSC), during a 12-month period ending September 30, 2003, U.S. District Courts handled 32,539 search warrants. By contrast, in one 14-month period—between April 2003 and July 2004—the Department used the section 213 authority only 61 times according to a Department survey. Even when compared to the AOUSC data for a shorter period of time, the 61 uses of section 213 still only accounts for less than 0.2% of the total search warrants handled by the courts. Indeed, since the USA PATRIOT Act was enacted on October 26, 2001, through January 31, 2005—a period of more than 3 years—the Department has utilized a delayed-notice search warrant only 155 times.

We have been working with United States Attorneys across the country to refine our data and develop a more complete picture of the usage of the section 213 authority. We have manually surveyed each of the 94 United States Attorneys' Offices for this information which, we understand, is not in a database. We are pleased to report our additional findings below.

In September 2003, the Department made public the fact that we had exercised the authority contained in section 213 to delay notification 47 times between October 2001, and April 1, 2003. Our most recent survey, which covers the time frame between April 1, 2003, and January 31, 2005, indicates we have delayed notification of searches in an additional 108 instances. Since April 1, 2003, no request for a delayed-notice search warrant has been denied. It is possible to misconstrue this information as evidence that courts are merely functioning as a "rubber stamp" for the Department's requests. In reality, however, it is an indication that the Department takes the authority codified by the USA PATRIOT Act very seriously. We judiciously seek court approval only in those rare circumstances—those that fit the narrowly tailored statute—when it is absolutely necessary and justified. As explained above, the Department estimates that it seeks to delay notice of fewer than 1 in 500 search warrants issued nationwide. To further buttress this point, the 108 instances of section 213 usage between April 1, 2003, and January 31, 2005, occurred in 40 different offices. And of those 40 offices, 17 used section 213 only once. Looking at it from another perspective over a longer time frame, 48 U.S. Attorneys' Offices—or slightly more than half—have never sought court permission to execute a de-

layed-notice search warrant in their districts since passage of the USA PATRIOT Act.

To provide further detail for your consideration, of the 108 times authority to delay notice was sought between April 1, 2003, and January 31, 2005, in 92 instances "seriously jeopardizing an investigation" (18 U.S.C. § 2705(a)(2)(E) was relied upon as a justification for the application. And in at least 28 instances, jeopardizing the investigation was the sole ground for seeking court approval to delay notification, including Operation Candy Box described above. It is important to note that under S. 1709, the "SAFE Act," which was introduced in the 108th Congress, this ground for delaying notice would be eliminated. Other grounds for seeking delayed-notice search warrants were relied on as follows: 18 U.S.C. § 2705(a)(2)(A) (danger to life or physical safety of an individual) was cited 23 times; 18 U.S.C. § 2705(a)(2)(B) (flight from prosecution) was cited 45 times; 18 U.S.C. § 2705(a)(2)(C) (destruction or tampering with evidence) was cited 61 times; and 18 U.S.C. § 2705(a)(2)(D) (intimidation of potential witnesses) was cited 20 times. As is probably clear, in numerous applications, U.S. Attorneys' Offices cited more than one circumstance as justification for seeking court approval. The bulk of uses have occurred in drug cases; but section 213 has also been used in many cases including terrorism, identity fraud, alien smuggling, explosives and firearms violations, and the sale of protected wildlife.

Members of the Senate Judiciary Committee have also been concerned about delayed notification of seizures and have requested more detailed explanation of the number of times seizures have been made pursuant to delayed-notice warrants. The Department is pleased to provide the following information.

Seizures can be made only after receiving approval of a Federal judge that the government has probable cause to believe the property or material to be seized constitutes evidence of a criminal offense and that there is reasonable necessity for the seizure. (See 18 U.S.C. § 3103a(b)(2)). According to the same survey of all U.S. Attorneys' Offices, the Department has asked a court to find reasonable necessity for a seizure in connection with delayed-notice searches 45 times between April 1, 2003, and January 31, 2005. In each instance in which we have sought authorization from a court during this same time frame, the court has granted the request. Therefore, from the time of the passage of the USA PATRIOT Act through January 31, 2005, the Department exercised this authority 59 times. We previously, in May 2003, advised Congress that we had made 15 requests for seizures, one of which was denied. In total, since the passage of the USA PATRIOT Act, the Department has therefore requested court approval to make a seizure and delay notification 60 times. Most commonly, these requests related to the seizure of illegal drugs. Such seizures were deemed necessary to prevent these drugs from being distributed because they are inherently dangerous to members of the community. Other seizures have been authorized pursuant to delayed-notice search warrants so that explosive material and the operability of gun components could be tested, other relevant evidence could be copied so that it would not be lost if destroyed, and a GPS tracking device could be placed on a vehicle. In short, the Department has sought seizure authority only when reasonably necessary.

The length of the delay in providing notice of the execution of a warrant has also received significant attention from Members of Congress. The range of delay must be decided on a case-by-case basis and is always dictated by the approving judge or magistrate.

According to the survey of the 94 U.S. Attorneys' Offices, between April 1, 2003 and January 31, 2005, the shortest period of time for which the government has requested delayed-notice of a search warrant was 7 days. The longest such specific period was 180 days; the longest unspecified period was until "further order of the court" or until the end of the investigation. An unspecified period of time for delay was granted for six warrants (four of these were related to the same case). While no court has ever rejected the government's request for a delay, in a few cases courts have granted a shorter time frame than the period originally requested. For example, in one case, the U.S. Attorney for the District of Arizona sought a delay of 30 days, and the court authorized a shorter delay of 25 days.

Of the 40 U.S. Attorneys' Offices that exercised the authority to seek delayed-notice search warrants between April 1, 2003, and January 31, 2005, just over half (22) of the offices sought extensions of delays. Those 22 offices together made approximately 98 appearances to seek additional extensions. In certain cases, it was necessary for the Offices to return to court on multiple occasions with respect to the same warrant. One case bears note. The U.S. Attorney in the Southern District of Illinois sought and received approval to delay notification based on the fifth category of adverse result—that immediate notification would seriously jeopardize the investigation. The length of the delay granted by the court was 7 days. However, the notification could not be made within 7 days and the office was required to seek 31 extensions. So, each week for almost eight straight months, the case agent was made to swear out an affidavit, and the Assistant United States Attorney (AUSA) then had to reappear before the judge or magistrate to renew the delay of notice.

In the vast majority of instances reported by the U.S. Attorneys' Offices, original delays were sought for between 30 to 90 days. It is not surprising that our U.S. Attorneys' Offices are requesting up to 90-day delays. Ninety days is the statutory allowance under Title III for notification of interception of wire or electronic communications (see 18 U.S.C. 2518(8)(d)). In only one instance did a U.S. Attorney's Office seek a delay of a specified period of time longer than 90 days (180 days), and the court granted this request. In another instance, an office sought a 90-day delay period, and the court granted 180 days. In seven instances, the Department sought delays that would last until the end of the investigation. In only once instance was such a request modified. In that matter, the court originally granted a 30-day delay. However, when notification could not be made within 30 days, the U.S. Attorney's Office returned to the judge for an extension, and the judge granted an extension through the end of the investigation, for a total of 406 days. This is, according to our survey, the longest total delay a court authorized. However, most extensions were sought and granted for the same period as the original delay requested.

In one case, a court denied a U.S. Attorney's Office's request for an extension of the delay in providing notice. This matter involved three delayed-notice search warrants—all-stemming from the same investigation. The original period of delay sought and granted was for 30 days on all three warrants. The Office then sought 30-day extensions on all three warrants out of concern that the multiple targets of the investigation might flee to a foreign country if notified. The court denied our request. The judge in the matter reasoned that the need to delay notification warranted only a 30-day stay of service, particularly in light of the



fact that one of the targets of the investigation was, by this time, in Federal custody in California on an unrelated matter. At some point after notification was made, however, the other targets fled to Mexico.

In sum, both before enactment of section 213 and after, immediate notice that a search warrant had been executed has been standard procedure. Delayed-notice search warrants have been used for decades by law enforcement and, as demonstrated by the numbers provided above, delayed-notice warrants are used infrequently and scrupulously—only in appropriate situations where immediate notice likely would harm individuals or compromise investigations, and even then only with a judge's express approval. The investigators and prosecutors on the front lines of fighting crime and terrorism should not be forced to choose between preventing immediate harm—such as a terrorist attack or an influx of illegal drugs—and completing a sensitive investigation that might shut down an entire terror cell or drug trafficking operation. Thanks to the long-standing availability of delayed-notice warrants in these circumstances, they do not have to make that choice. Section 213 enables us to better protect the public from terrorists and criminals while preserving Americans constitutional rights.

As you may be aware, the Department published a detailed report last year that includes numerous additional examples of how delaying notification of search warrants in certain circumstances resulted in beneficial results. We have enclosed a copy for your convenience.

If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,

WILLIAM E. MOSCHELLA,  
Assistant Attorney General.

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, May 3, 2005.

Hon. ARLEN SPECTER,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During the closed session of the Senate Judiciary Committee on April 12, 2005, you requested additional information regarding Section 213 of the USA PATRIOT Act. Specifically, you inquired about examples of where the "seriously jeopardizing an investigation" prong was the sole "adverse result" used to request delayed notice. In addition to Operation Candy Box, which was detailed in our April 4, 2005, letter to the Committee, we have described seven additional cases below. It is important to note that the twenty-eight instances cited in our April 4 letter do not equate to twenty-eight investigations or cases. For example, some of the cases that used delayed-notice search warrants utilizing the "seriously jeopardize" prong involved multiple search warrants.

As we are sure you will agree, the following examples of the use of delayed-notice search warrants illustrate not only the appropriateness of the Department's use of this important tool, but also its criticality to law enforcement investigations.

Example #1: Western District of Pennsylvania:

The Justice Department obtained a delayed-notice search warrant for a Federal Express package that contained counterfeit credit cards. At the time of the search, it was very important not to disclose the existence of a federal investigation, as this would have revealed and endangered a related Title III wiretap that was ongoing for major drug trafficking activities. Originally, the Department was granted a ten-day delay by the

court; but the Department sought and was granted eight extensions before notice could be made.

An Organized Crime Drug Enforcement Task Force ("OCDETF"), which included agents from the Drug Enforcement Administration (DEA), the Internal Revenue Service, and the Pittsburgh Police Department, as well as from other state and local law enforcement agencies, was engaged in a multi-year investigation that culminated in the indictment of the largest trafficking organization ever prosecuted in the Western District of Pennsylvania. The organization was headed by Oliver Beasley and Donald "The Chief" Lyles. A total of fifty-one defendants were indicted on drug, money laundering and firearms charges. Beasley and Lyles were charged with operating a Continuing Criminal Enterprise as the leaders of the organization. Both pleaded guilty and received very lengthy sentences of imprisonment.

The Beasley/Lyle organization was responsible for bringing thousands of kilograms of cocaine and heroin into Western Pennsylvania. Cooperation was obtained from selected defendants and their cooperation was used to obtain indictments against individuals in New York who supplied the heroin and cocaine. Thousands of dollars in real estate, automobiles, jewelry and cash have been forfeited.

The case had a discernible and positive impact upon the North Side of Pittsburgh, where the organization was based. The DEA reported that the availability of heroin and cocaine in this region decreased as the result of the successful elimination of this major drug trafficking organization. In addition, heroin overdose deaths in Allegheny County declined from 138 in 2001 to 46 in 2003.

While the drug investigation was ongoing, it became clear that several leaders of the drug conspiracy had ties to an ongoing credit card fraud operation. An investigation into the credit card fraud was undertaken, and a search was made of a Fed Ex package that contained fraudulent credit cards. Had the search into the credit card fraud investigation revealed the ongoing drug investigation prematurely, the drug investigation could have been seriously jeopardized. The credit card investigation ultimately resulted in several cases including *US v. Larry Goolsby*, Sandra Young (Cr. No. 02-74); *US v. Lasaun Beeman*, Derinda Daniels, Anna Holland, Darryl Livsey and Kevin Livsey (Cr. No. 03-43); *US v. Gayle Charles* (Cr. No. 03-77); *US v. Scott Zimmerman*, Lloyd Foster (Cr. No. 03-44). All of the defendants charged with credit card fraud were convicted except one, Lloyd Foster, who was acquitted at trial. These cases have now concluded.

Example #2: Western District of Texas:

The Justice Department executed three delayed notice searches as part of an OCDETF investigation of a major drug trafficking ring that operated in the Western and Northern Districts of Texas. The investigation lasted a little over a year and employed a wide variety of electronic surveillance techniques such as tracking devices and wiretaps of cell phones used by the leadership. The original delay approved by the court in this case was for 60 days. The Department sought two extensions, one for 60 days and one for 90 days both of which were approved.

During the wiretaps, three delayed-notice search warrants were executed at the organization's stash houses. The search warrants were based primarily on evidence developed as a result of the wiretaps. Pursuant to section 213 of the USA PATRIOT Act, the court allowed the investigating agency to delay the notifications of these search warrants. Without the ability to delay notification, the Department would have faced two choices: (1) seize the drugs and be required to notify

the criminals of the existence of the wiretaps and thereby end our ability to build a significant case on the leadership or (2) not seize the drugs and allow the organization to continue to sell them in the community as we continued with the investigation. Because of the availability of delayed-notice search warrants, the Department was not forced to make this choice. Agents seized the drugs, continued our investigation, and listened to incriminating conversations as the dealers tried to figure out what had happened to their drugs.

On March 16, 2005, a grand jury returned an indictment charging twenty-one individuals with conspiracy to manufacture, distribute, and possess with intent to distribute more than 50 grams of cocaine base. Nineteen of the defendants, including all of the leadership, are in custody. All of the search warrants have been unsealed, and it is anticipated that the trial will be set sometime within the next few months.

Example #3: District of Connecticut:

The Justice Department used section 213 of the USA PATRIOT Act in three instances to avoid jeopardizing the integrity of a pending federal investigation into a Connecticut drug trafficking organization's distribution of cocaine base and cocaine. The provision was used to place a global positioning device on three vehicles.

These applications were submitted in the case of *United States v. Julius Moorning*, et al. That case was indicted at the end of April 2004, and 48 of 49 individuals charged have been arrested. As of this date, 38 of the defendants have entered guilty pleas, and several more are being scheduled. The trial of the remaining defendants is scheduled to begin on July 15. All defendants with standing to challenge any of the orders obtained have entered guilty pleas.

The Justice Department believed that if the targets of the investigation were notified of our use of the GPS devices and our monitoring of them, the purpose of the use of this investigative tool would be defeated, and the investigation would be totally compromised. As it was, the principals in the targeted drug-trafficking organization were highly surveillance-conscious, and reacted noticeably to perceived surveillance efforts by law enforcement. Had they received palpable confirmation of the existence of an ongoing federal criminal investigation, the Justice Department believed they would have ceased their activities, or altered their methods to an extent that would have required us to begin the investigation anew.

In each instance, the period of delay requested and granted was 90 days, and no renewals of the delay orders were sought. And, as required by law, the interested parties were made aware of the intrusions resulting from the execution of the warrants within the 90 day period authorized by the court.

Example #4: Western District of Washington:

During an investigation of a drug trafficking organization, which was distributing cocaine and an unusually pure methamphetamine known as "ice," a 30-day delayed-notice search warrant was sought in April 2004. As a result of information obtained through a wiretap as well as a drug-sniffing dog, investigators believed that the leader of the drug distribution organization was storing drugs and currency in a storage locker in Everett, Washington. The warrant was executed, and while no drugs or cash was found, an assault rifle and ammunition were discovered. Delayed notice of the search warrant's execution was necessary in order to protect the integrity of other investigative techniques being used in the case, such as a wiretap. The investigation ultimately led to the indictment of twenty-seven individuals in

the methamphetamine conspiracy. Twenty-three individuals, including the leader, have pled guilty, three are fugitives, and one is awaiting trial.

Example #5: Southern District of Illinois:

The Justice Department used section 213 of the USA PATRIOT Act in an investigation into a marijuana distribution conspiracy in the Southern District of Illinois. In particular, in November 2003, a vehicle was seized pursuant to authority granted under the provision.

During this investigation, a Title III wiretap was obtained for the telephone of one of the leaders of the organization. As a result of intercepted telephone calls and surveillance conducted by DEA, it was learned that a load of marijuana was being brought into Illinois from Texas. Agents were able to identify the vehicle used to transport the marijuana. DEA then located the vehicle at a motel in the Southern District of Illinois and developed sufficient probable cause to apply for a warrant to search the vehicle. It was believed, however, that immediate notification of the search warrant would disclose the existence of the investigation, resulting in, among other things, phones being "dumped" and targets ceasing their activities, thereby jeopardizing potential success of the wiretaps and compromising the overall investigation (as well as related investigations in other districts). At the same time it was important, for the safety of the community, to keep the marijuana from being distributed.

The court approved the Department's application for a warrant to seize the vehicle and to delay notification of the execution of the search warrant for a period of seven days, unless extended by the Court. With this authority, the agents seized the vehicle in question (making it appear that the vehicle had been stolen) and then searched it following the seizure. Approximately 96 kilograms of marijuana were recovered in the search. Thirty one seven-day extensions to delay notice were subsequently sought and granted due to the ongoing investigation.

As a result of this investigation, ten defendants were ultimately charged in the Southern District of Illinois. Seven of these defendants have pled guilty, and the remaining three defendants are scheduled for jury trial beginning on June 7, 2005.

Example #6: Eastern District of Wisconsin:

In a Wisconsin drug trafficking case, a delayed-notice search warrant was issued under section 213 because immediate notification would have seriously jeopardized the investigation. In this case, the Department was in the final stages of a two-year investigation, pre-takedown of several individuals involved in the trafficking of cocaine. The Department initially received a delayed-notice search warrant for seven days, and thereafter received three separate seven-day extensions. For each request, the Department showed a particularized need that providing notice that federal investigators had entered the home being searched would compromise the informant and the investigation.

On February 14, 2004, the United States Attorney's Office for the Eastern District of Wisconsin requested a search warrant to look for evidence of assets, especially bank accounts, at a suspect's residence as well as to attach an electronic tracking device on a vehicle investigators expected to find in the garage. The purpose of the device would be to track the suspect and observe his meetings in the final weeks before the takedown. The warrant also requested delayed notice, based on the particularized showing that providing notice that federal investigators had entered the home would compromise an informant and the investigation. The court issued the search warrant and granted the delayed notification for a period of seven

days. On February 15, 2004, authorized officers of the United States executed the search warrant on the subject premises. However, agents were unable to locate the vehicle to install the electronic tracking device.

Before the expiration of the initial delayed-notice period, the Department sought an extension of the delay based on the showing that notice would compromise the informant and the investigation. The court granted a seven-day extension, but investigators were still unable to locate the suspect's vehicle during this time. During this period, however, five suspects were charged with conspiring to possess more than five kilograms of cocaine, and arrest warrants were issued for each of the individuals.

After the issuance of the arrest warrants, the Department sought its third delay of notice to allow agents to endeavor to install the electronic tracking device and to attempt to locate the five suspects. Once again, the request was based on the showing that notice would compromise the informant and the investigation. The court granted another seven-day extension, and agents were able to find a location where one suspect appeared to be staying. After locating the suspect, and before the expiration of the delayed-notice period, the government requested a separate warrant for this location and for other locations used by the conspirators. The Department also requested its fourth and final delay in the notice period to allow agents to execute the search warrants sought, and to arrest the suspects. The court granted all requests and the suspects were subsequently arrested. As required by law, notice of the searches was given upon arrest.

Example #7: Eastern District of Washington:

In a drug trafficking and money laundering case in the State of Washington, a delayed-notice search warrant was issued under section 213 because immediate notification would have seriously jeopardized the investigation. In this case, a district judge had authorized the interception of wire and electronic communications occurring over four cellular telephones that were being used in furtherance of drug trafficking and/or money laundering activities. On December 18, 2004, more than one month after the Drug Enforcement Administration (DEA) began surveillance, DEA agents administratively seized a black Ford Focus owned by one of the suspects based on the determination that the vehicle likely contained controlled substances.

On December 21, 2004, the DEA requested a warrant to search the seized vehicle for drugs, and the court issued the warrant based on the DEA's articulation of probable cause. On the same day, the search warrant was executed on the suspect's vehicle, which was still in the DEA's possession pursuant to the administrative seizure. During the search, agents located approximately two kilograms of suspected cocaine and three pounds of suspected methamphetamine. At the time, the service copy of the search warrant was "served" on the vehicle.

Due to the nature of the investigation, which included the orders authorizing the interception of wire and electronic communications to and from a number of cellular telephones, the DEA believed that both the continued administrative seizure of the vehicle and notice of the execution of the search warrant would greatly compromise the investigation. Therefore, the DEA requested an order allowing them to remove the served copy of the warrant from the vehicle, and delay notice to the owner for sixty days in order to avoid jeopardizing the ongoing criminal investigation. The court granted the order, concluding that immediate notification would compromise a major drug trafficking and money laundering investigation.

Approximately twenty-five individuals have been indicted as a result of this investigation (eight of whom are still fugitives), and trial is scheduled for this October.

In closing, the Department of Justice believes it is critical that law enforcement continue to have this vital tool for those limited circumstances, such as those discussed above, where a court finds good cause to permit the temporary delay of notification of a search.

We hope the information provided above is helpful. Should you require any further information, please do not hesitate to contact this office.

Sincerely,

WILLIAM E. MOSCHELLA,  
Assistant Attorney General.

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, June 28, 2005.

Hon. ARLEN SPECTER,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your request for more information regarding the use of section 213 of the USA PATRIOT Act ("the Act"), which relates to delayed-notice search warrants. The Department of Justice has provided the Senate Judiciary Committee two letters detailing the specific usage of delayed-notice search warrants. Those letters were sent to the Committee on April 4, 2005, and May 3, 2005, respectively. This letter is intended to supplement the previous information we have already provided the Committee.

As you know, the Department believes very strongly that section 213 is an invaluable tool in the war on terror and our efforts to combat serious criminal conduct. In passing the USA PATRIOT Act, Congress recognized that delayed-notice search warrants are a vital aspect of the Department's strategy of prevention: detecting and incapacitating terrorists, drug dealers and other criminals before they can harm our nation. Codified at 18 U.S.C. §3103a, section 213 of the Act created an explicit statutory authority for investigators and prosecutors to ask a court for permission to delay notice temporarily that a search warrant was executed.

Delayed-notice search warrants have been used by law enforcement officers for decades. Such warrants were not created by the USA PATRIOT Act. Rather, the Act simply codified a common-law practice recognized by courts across the country. Section 213 simply established a uniform nationwide standard for the issuance of those warrants, thus ensuring that delayed-notice search warrants are evaluated under the same criteria across the nation. Like any other search warrant, a delayed-notice search warrant is issued by a federal judge only upon a showing that there is probable cause to believe that the property to be searched for or seized constitutes evidence of a criminal offense. A delayed-notice warrant differs from an ordinary search warrant only in that the judge specifically authorizes the law enforcement officers executing the warrant to wait for a limited period of time before notifying the subject of the search that a search was executed.

In addition, investigators and prosecutors seeking a judge's approval to delay notification must show that, if notification were made contemporaneous to the search, there is reasonable cause to believe one of the following adverse results might occur: (1) notification would endanger the life or physical safety of an individual; (2) notification would cause flight from prosecution; (3) notification would result in destruction of, or tampering with, evidence; (4) notification would result in intimidation of potential witnesses;

or (5) notification would cause serious jeopardy to an investigation or unduly delay a trial.

To be clear, it is only in these five tailored circumstances that the Department may request judicial approval to delay notification, and a federal judge must agree with the Department's evaluation before approving any delay.

Delayed-notice search warrants provide a crucial option to law enforcement. If immediate notification were required regardless of the circumstances, law enforcement officials would be too often forced into making a "Hobson's choice": delaying the urgent need to conduct a search and/or seizure or conducting the search and prematurely notifying the target of the existence of law enforcement interest in his or her illegal conduct and undermine the equally pressing need to keep the ongoing investigation confidential.

It is important to stress that in all circumstances the subject of a criminal search warrant is informed of the search. It is simply false to suggest, as some have, that delayed-notice search warrants allow the government to search an individual's "houses, papers, and effects" without notifying them of the search. In every case where the government executes a criminal search warrant, including those issued pursuant to section 213, the subject of the search is told of the search. With respect to delayed-notice search warrants, such notice is simply delayed for a reasonable period of time—a time period defined by a federal judge.

Delayed-notice search warrants are constitutional and do not violate the Fourth Amendment. The U.S. Supreme Court expressly held in *Dalia v. United States* that the Fourth Amendment does not require law enforcement to give immediate notice of the execution of a search warrant. Since *Dalia*, three federal courts of appeals have considered the constitutionality of delayed-notice search warrants, and all three have upheld their constitutionality. To our knowledge, no court has ever held otherwise. In short, long before the enactment of the USA PATRIOT Act, it was clear that delayed notification was appropriate in certain circumstances; that remains true today. The USA PATRIOT Act simply resolved the mix of inconsistent rules, practices and court decisions varying from circuit to circuit. Therefore, section 213 had the beneficial impact of mandating uniform and equitable application of the authority across the nation.

The Department has provided the Committee with detailed information regarding how often section 213 has been used. Let us assure you again that the use of a delayed-notice search warrant is the exception, not the rule. Law enforcement agents and investigators provide immediate notice of a search warrant's execution in the vast majority of cases. According to Administrative Office of the U.S. Courts (AOUSC), during the 36-month period ending September 30, 2004, U.S. District Courts handled 95,925 search warrants. By contrast, in the 39-month period between the passage of the USA PATRIOT Act and January 31, 2005, the Department used the section 213 authority only 153 times according to a Department survey. Even when compared to the AOUSC data for a shorter period of time, the 153 uses of section 213 still only account for less than 0.2% of the total search warrants handled by the courts.

Specifically, you have inquired about examples of where the "seriously jeopardizing an investigation" prong was the sole "adverse result" used to request delayed notice. From April 1, 2003, to January 31, 2005, the "seriously jeopardizing an investigation" prong has been the sole ground for request-

ing delayed notice in thirty-two instances. Contrary to concerns expressed by some, this prong is not a "catch-all" that is used in run-of-the-mill cases. The Department estimates that fewer than one in 500 of the search warrants that have been obtained since the passage of the PATRIOT Act have been delayed-notice search warrants. In other words, in over 499 of 500 cases, immediate notice was provided. Moreover, fewer than one in three delayed-notice search warrants obtained by the Department in the last two years solely relied on the fact that immediate notification would seriously jeopardize an investigation. Thus, fewer than one in 1,500 search warrants relied solely on this prong, a fact hardly consistent with the concern that the Department will obtain a delayed-notice search warrant in the typical case.

Of those thirty-two instances, delayed-notice search warrants were used in a total of twenty-two investigations. The thirty-two instances do not equate to thirty-two investigations or cases because some of the cases that used delayed-notice search warrants utilizing the "seriously jeopardize" prong involved multiple search warrants. The Department of Justice has provided the Committee detailed descriptions of eight of the twenty-two investigations where the "seriously jeopardizing an investigation" prong was the sole "adverse result" used to request delayed notice. The descriptions already provided include Operation Candy Box, which was detailed in our April 4, 2005, letter to the Committee, and seven additional cases described in a May 3, 2005 letter to the Committee. This letter is intended to supplement the previous information we have provided by detailing the seven remaining investigations that have been unsealed, and identifying the seven remaining investigations that are currently sealed. Two of the seven investigations that remain under seal are terrorism-related.

As we are sure you will agree, the following examples of the use of delayed-notice search warrants illustrate not only the appropriateness of the Department's use of this vital tool, but also its importance to law enforcement investigations.

Example #9: Southern District of Illinois:

The United States Attorney's Office for the Southern District of Illinois used a delayed-notice search warrant pursuant to Title 18 U.S.C. §3103a in the investigation of an OCDETF (Organized Crime Drug Enforcement Task Force) case. Although the Southern District of Illinois handled the investigation, the search warrant application was filed by the United States Attorney's Office in the Eastern District of Missouri because the apartment to be searched was located there. The search warrant was sought because a Title III wiretap revealed that the house to be searched was being used as a safehouse for those trafficking in drugs, and it was believed that the notification of the search warrant would seriously jeopardize the ongoing investigation into the drug organization and its numerous members and frustrate the identification of additional sources of supply. The search warrant was issued by a Magistrate Judge in the Eastern District of Missouri on April 6, 2004, for a period of 7 days. No extensions were requested or authorized. The case was indicted on November 18, 2004. One defendant has pled guilty and thirteen defendants are awaiting trial.

Example #10: Northern District of Georgia:

The United States Attorney's Office for the Northern District of Georgia used section 213 in a drug investigation to delay notice of three search warrants in three locations. A Title III wiretap had revealed that a drug dealer had three stash locations, and the United States Attorney's Office wanted to

search those locations without tipping off the drug dealers. A federal judge approved three delayed-notice search warrants that yielded several kilos of cocaine, pounds of ICE, a very pure form of methamphetamine, and firearms. The agents were also able to photograph documentary evidence such as ledgers. The use of the delayed-notice search warrant was successful in cementing the case against the defendant, who was indicted in April 2005.

Example #11: Northern District of Georgia:

The United States Attorney's Office for the Northern District of Georgia also used section 213 in another drug investigation. The DEA had obtained court approval to install and monitor wiretaps of several cellular phones used by high-level members of a Mexican cocaine and methamphetamine distribution cell operating in Atlanta. While monitoring the phones, the targets' conversations showed that they were delivering 100 kilograms of cocaine to a purchaser. Surveillance identified one of the stash houses from which the targets obtained 14 kilograms of the cocaine, and the conversations indicated that more of the cocaine was located in the stash house. At that time, however, the investigation and interceptions on the cell phones had not identified the highest-level members of the cell, so the agents were not in a position to make arrests and take down the organization. The agents therefore needed to seize the cocaine while trying to minimize the chances that the seizure would cause the targets to cease usage of their cellular phones. Investigators decided it was appropriate to seek a delayed-notice warrant that would allow them access to the stash house. A federal judge approved the warrant that resulted in the seizure of 36 kilograms of cocaine, some methamphetamines, and two weapons including a sawed-off shotgun, without having to leave a copy of the warrant and provide confirmation to the targets that they were being watched by law enforcement. Since the subsequent arrests of sixteen individuals for various drug-trafficking charges in this investigation, two have pled guilty, three have been sentenced, five are set for sentencing and six are currently awaiting trial.

Example #12: Western District of New York:

Operation Trifecta was a Title III wiretap investigation being conducted in the United States Attorney's Office for the Southern District of New York, the Western District of New York (WDNY OCDETF Operation Next of Kin) as well as in U.S. Attorney's Offices in California, Ohio, and Arizona and by law enforcement authorities in Mexico. As part of this multi-district and international investigation, Title III wiretap orders were obtained in each of the jurisdictions involved in the investigation. In May 2003, information was received as a result of a Title III interception order that the targets of the investigation were arranging the transportation of a vehicle ("load vehicle") that was believed to conceal a substantial quantity of cocaine by transporting it on a car carrier. Once it was determined that the car carrier would transport the load vehicle through the Western District of New York, an application was made to search the load vehicle. The magistrate judge that issued the warrant also authorized delay in giving notice of the execution of the search warrant pursuant to section 213 of the USA PATRIOT Act.

Once the car carrier transporting the load vehicle arrived in the Western District of New York, a local Sheriff's Department deputy executed a traffic stop. It was discovered that the VIN plate on the dashboard of the load vehicle appeared to have been tampered with or replaced. As a result of the suspect VIN plate, the load vehicle was removed

from the car carrier, impounded and the car carrier was allowed to proceed on its way. Thereafter, a delayed-notice search warrant was executed on the load vehicle, resulting in 37 kilograms of cocaine being seized from it. After the seizure of the load vehicle, conversations regarding efforts to re-obtain the load vehicle were intercepted between the subjects of the investigation. These efforts continued until July 30, 2003, which was the takedown date for all aspects of the investigation. Extensions of the order delaying notice were obtained until the takedown date. Until they were arrested, the subjects of the investigation were completely unaware as to the actual reason why the load vehicle was seized, and that the cocaine secreted in the load vehicle had been located.

Obviously, had the subjects of the investigation received notice that a search warrant had been obtained for the load vehicle, this investigation would have been seriously compromised. Delayed notice allowed the investigating agencies to make a significant seizure of cocaine while at the same time allowing the investigation, which had national and international ramifications, to continue to its successful conclusion. Twenty defendants were charged in the Western District of New York, and all have pled guilty.

Example #13: Western District of New York:

As a result of investigations in the Western District of New York, the Eastern District of California, and Canada, including wiretaps in all three locations, information was obtained that several defendants were involved in smuggling large quantities of ephedrine, a listed chemical, from Canada into the United States. There were four delayed-notice search warrants issued in the case, which were all justified by the "seriously jeopardizing an investigation" prong only; two for premises that were believed to be "stash houses" for ephedrine and money; and two for packages sent through the U.S. and Canadian mail which were believed to also contain contraband. All delayed-notice search warrants were issued for 10 days on the grounds that providing notice would adversely affect the investigation of this multi-district case in that the Canadian wiretaps were still up, and a series of arrests were planned for the week following the search in a related drug case in the Eastern District of California. The prosecution in this case is currently pending.

Example #14: Western District of New York:

A delayed-notice search warrant was obtained for the District of Maryland to open and photograph the contents of a safe deposit box that the target, a Canadian citizen, was allegedly using to store his proceeds of drug trafficking. Following the sale of heroin by the target to undercover law enforcement in Maryland, the target was followed back to the U.S./Canada border and observed going to a bank in Niagara Falls, New York before entering Canada. A search warrant was obtained for the safe deposit box, and the money (identified through prerecorded serial numbers) from the purchase of the drugs was found in the box. The contents were photographed but not seized. The notification was delayed until arrests could be made in the case—a period of six months. This target is currently a fugitive while other subjects of the investigation were arrested in August 2003.

Example #15: Western District of Michigan: The defendant in *United States v. Eason* was charged on numerous drug-trafficking counts in indictments returned in 1995 and 1996, and was a fugitive until his arrest in July 2004. While the defendant was incarcerated and his case was pending, information was discovered that the defendant was cor-

responding with associates and family members through the mail at the Kalamazoo County Jail in an attempt to intimidate witnesses, obstruct justice or even contract for the murder of a federal prosecutor. It was determined that the only way to effectively obtain information about these threats was to use a delayed-notice search warrant, which allowed agents to copy the defendant's ingoing and outgoing mail and envelopes, re-seal the mail, and then forward the mail to the intended recipient. The judge determined that notifying the defendant of these actions would have seriously jeopardized the investigation. Additional information concerning the underlying threat investigation cannot be disclosed at this time. The defendant was convicted on January 18, 2005 on numerous drug-trafficking counts and faces a statutory range of 20 years to life. His advisory United States Sentencing Guideline range is life imprisonment.

Example #16: District of Maryland—Sealed.

Example #17: Northern District of Georgia—Sealed.

Example #18: Southern District of Iowa—Sealed. Two delayed-notice search warrants were issued in this investigation.

Example #19: Southern District of Ohio—Sealed.

Example #20: Southern District of Ohio—Sealed.

Example #21: Southern District of Texas—Sealed.

Example #22: Western District of New York—Sealed.

In sum, delayed-notice search warrants have been used for decades by law enforcement and, as demonstrated by the numbers and examples provided above, delayed-notice warrants are used infrequently and scrupulously—only in appropriate situations where immediate notice likely would harm individuals or compromise investigations, and even then only with a judge's express approval. The investigators and prosecutors on the front lines of fighting crime and terrorism should not be forced to choose between preventing immediate harm—such as a terrorist attack or an influx of illegal drugs—and completing a sensitive investigation that might shut down an entire terror cell or drug trafficking operation. Thanks to the long-standing availability of delayed-notice warrants in these circumstances, they do not have to make that choice. Section 213 enables us to better protect the public from terrorists and criminals while preserving Americans constitutional rights. The Department of Justice believes it is critical that law enforcement continue to have this vital tool for those limited circumstances, such as those discussed above, where a court finds good cause to permit the temporary delay of notification of a search.

We hope the information provided above is helpful. Should you require any further information, please do not hesitate to contact this office.

Sincerely,

WILLIAM E. MOSCHELLA,  
Assistant Attorney General.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1389

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "USA PATRIOT Improvement and Reauthorization Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Patriot section 203; notice to court of disclosure of foreign intelligence information.
- Sec. 3. Patriot section 206; additional requirements for multipoint electronic surveillance under FISA.
- Sec. 4. Patriot section 207; duration of FISA surveillance of non-United States persons.
- Sec. 5. Patriot section 212; enhanced oversight of good-faith emergency disclosures.
- Sec. 6. Patriot section 213; limitations on delayed notice search warrants.
- Sec. 7. Patriot section 214; factual basis for pen register and trap and trace authority under FISA.
- Sec. 8. Patriot section 215; procedural protections for court orders to produce records and other items in intelligence investigations.
- Sec. 9. Patriot section 505; procedural protections for national security letters.
- Sec. 10. Sunset provisions.
- Sec. 11. Enhancement of sunshine provisions.

#### SEC. 2. PATRIOT SECTION 203; NOTICE TO COURT OF DISCLOSURE OF FOREIGN INTELLIGENCE INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(9) Within a reasonable time after disclosure is made, pursuant to paragraph (6), (7), or (8), of the contents of any wire, oral, or electronic communication, an attorney for the Government must file, under seal, a notice with the judge that issued the order authorizing or approving the interception of such wire, oral, or electronic communication, stating that such contents or evidence was disclosed and the departments, agencies, or entities to which the disclosure was made."

#### SEC. 3. PATRIOT SECTION 206; ADDITIONAL REQUIREMENTS FOR MULTIPOINT ELECTRONIC SURVEILLANCE UNDER FISA.

(a) PARTICULARITY REQUIREMENT.—Section 105(c)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting before the semicolon at the end the following: ", and if the nature and location of each of the facilities or places at which the surveillance will be directed is not known, and if the identity of the target is not known, the order shall include sufficient information to describe a specific target with particularity".

(b) ADDITIONAL DIRECTIONS.—Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) by striking "An order approving an electronic surveillance under this section shall—";

(2) in paragraph (1), by inserting before "specify" the following: "SPECIFICATIONS.—An order approving an electronic surveillance under this section shall";

(3) in paragraph (1)(F), by striking "; and" and inserting a period;

(4) in paragraph (2), by inserting before "direct" the following: "DIRECTIONS.—An order approving an electronic surveillance under this section shall"; and

(5) by adding at the end the following:

"(3) SPECIAL DIRECTIONS FOR CERTAIN ORDERS.—An order approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court

within 10 days after the date on which surveillance begins to be directed at any new facility or place of—

“(A) the nature and location of each facility or place at which the electronic surveillance is directed;

“(B) the facts and circumstances relied upon by the applicant to justify the applicant's belief that each facility or place at which the electronic surveillance is directed is being used, or is about to be used, by the target of the surveillance; and

“(C) a statement of any proposed minimization procedures that differ from those contained in the original application or order, that may be necessitated by a change in the facility or place at which the electronic surveillance is directed.”.

(c) ENHANCED OVERSIGHT.—

(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) is amended by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Paragraph (2) of section 108(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:

“(2) Each report under the first sentence of paragraph (1) shall include a description of—

“(A) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title where the nature and location of each facility or place at which the electronic surveillance will be directed is not known; and

“(B) each criminal case in which information acquired under this Act has been authorized for use at trial during the period covered by such report.”.

#### SEC. 4. PATRIOT SECTION 207; DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS.

(a) ELECTRONIC SURVEILLANCE ORDERS.—Section 105(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking “, as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

(2) in paragraph (2)(B), by striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(b) PHYSICAL SEARCH ORDERS.—Section 304(d) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

(2) in paragraph (2), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

(1) inserting after “90 days” the first place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order issued under this section may be for a period not to exceed 1 year”; and

(2) by inserting after “90 days” the second place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an extension of an order issued under this section may be for a period not to exceed 1 year”.

#### SEC. 5. PATRIOT SECTION 212; ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES.

(a) ENHANCED OVERSIGHT.—Section 2702 of title 18, United States Code, is amended by adding at the end the following:

“(d) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

“(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

“(2) a summary of the basis for disclosure in those instances where—

“(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

“(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.”.

(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

(1) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(8)—

(i) by striking “Federal, State, or local”; and

(ii) by inserting “immediate” before “danger”; and

(B) by striking subsection (c)(4) and inserting the following:

“(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure without delay of the information.”.

(2) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.”.

#### SEC. 6. PATRIOT SECTION 213; LIMITATIONS ON DELAYED NOTICE SEARCH WARRANTS.

(a) GROUNDS FOR DELAY.—Section 3103a(b)(1) of title 18, United States Code, is amended by striking “may have an adverse result (as defined in section 2705);” and inserting “may—

“(A) endanger the life or physical safety of an individual;

“(B) result in flight from prosecution;

“(C) result in the destruction of or tampering with evidence;

“(D) result in intimidation of potential witnesses; or

“(E) otherwise seriously jeopardize an investigation;”.

(b) LIMITATION ON REASONABLE PERIOD FOR DELAY.—Section 3103a(b)(3) of title 18, United States Code, is amended by—

(1) inserting “on a date certain that is” before “within a reasonable period of its execution”; and

(2) after “good cause shown” inserting “, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay”.

(c) ENHANCED OVERSIGHT.—Section 3103a of title 18, United States Code, is amended by adding at the end the following:

“(c) REPORTS.—

“(1) REPORT BY JUDGE.—Not later than 30 days after the expiration of a warrant au-

thorizing delayed notice (including any extension thereof) entered under this section, or the denial of such warrant (or request for extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

“(A) the fact that a warrant was applied for;

“(B) the fact that the warrant or any extension thereof was granted as applied for, was modified, or was denied;

“(C) the period of delay in the giving of notice authorized by the warrant, and the number and duration of any extensions; and

“(D) the offense specified in the warrant or application.

“(2) REPORT BY ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In April of each year, the Director of the Administrative Office of the United States Courts shall transmit to Congress a full and complete report—

“(A) concerning the number of applications for warrants and extensions of warrants authorizing delayed notice pursuant to this section, and the number of warrants and extensions granted or denied pursuant to this section during the preceding calendar year; and

“(B) that includes a summary and analysis of the data required to be filed with the Administrative Office by paragraph (1).

“(3) REGULATIONS.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, is authorized to issue binding regulations dealing with the content and form of the reports required to be filed under paragraph (1).”.

#### SEC. 7. PATRIOT SECTION 214; FACTUAL BASIS FOR PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.

(a) FACTUAL BASIS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES UNDER FISA.—

(1) APPLICATION.—Section 402(c)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)(2)) is amended by striking “a certification by the applicant that” and inserting “a statement of the facts relied upon by the applicant to justify the applicant's belief that”.

(2) ORDER.—Section 402(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(1)) is amended by striking “if the judge finds that” and all that follows and inserting “if the judge finds that the application includes sufficient facts to justify the belief that the information likely to be obtained is foreign intelligence information not concerning a United States person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities and otherwise satisfies the requirements of this section.”.

(b) RECORDS.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by adding “and” at the end; and

(B) in clause (iii), by striking the period at the end and inserting a semicolon; and

(2) in subparagraph (B)(iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic communication service shall disclose to the Federal officer using the pen register or trap and trace device covered by the order—

“(i) in the case of the customer or subscriber using the service covered by the order (for the period specified by the order)—

“(I) the name of the customer or subscriber;

“(II) the address of the customer or subscriber;

“(III) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

“(IV) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

“(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

“(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

“(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service; and

“(ii) if available, with respect to any customer or subscriber of incoming or outgoing communications to or from the service covered by the order—

“(I) the name of such customer or subscriber;

“(II) the address of such customer or subscriber;

“(III) the telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information; and

“(IV) the length of the provision of service by such provider to such customer or subscriber and the types of services utilized by such customer or subscriber.”

(c) **ENHANCED OVERSIGHT.**—Section 406 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846) is amended—

(1) in subsection (a), by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”; and

(2) in subsection (b), by striking “On a semiannual basis” through “the preceding 6-month period” and inserting, “In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year”.

**SEC. 8. PATRIOT SECTION 215; PROCEDURAL PROTECTIONS FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGATIONS.**

(a) **FACTUAL BASIS FOR REQUESTED ORDER.**—

(1) **APPLICATION.**—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended by striking “shall specify that the records concerned are sought for” and inserting “shall include a statement of facts showing that there are reasonable grounds to believe that the records or other things sought are relevant to”.

(2) **ORDER.**—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking “if the judge finds that” and all that follows and inserting “if the judge finds that the statement of facts contained in the application establishes reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, and the application meets the other requirements of this section.”.

(b) **ADDITIONAL PROTECTIONS.**—Section 501(c) of the Foreign Intelligence Surveil-

lance Act of 1978 (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2), by inserting after “An order under this subsection” the following:

“(A) shall describe the tangible things concerned with sufficient particularity to permit them to be fairly identified;

“(B) shall prescribe a return date which will provide a reasonable period of time within which the tangible things can be assembled and made available;

“(C) shall provide clear and conspicuous notice of the principles and procedures set forth in subsections (d) and (f); and

“(D)”.

(c) **DIRECTOR APPROVAL FOR CERTAIN APPLICATIONS.**—Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

(1) in paragraph (1), by striking “The Director” and inserting “Except as provided in paragraph (3), the Director”; and

(2) by adding at the end the following:

“(3) No application shall be made under this section for an order requiring the production of library circulation records, library patron lists, book sales records, book customer lists, firearms sales records, or medical records containing personally identifiable information without the prior written approval of the Director of the Federal Bureau of Investigation. The Director may delegate authority to approve such an application to the Deputy Director of the Federal Bureau of Investigation, but such authority may not be further delegated.”.

(d) **PROHIBITION ON DISCLOSURE.**—Section 501(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)) is amended to read as follows:

“(d)(1) No person shall disclose to any other person that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section other than to—

“(A) those persons to whom such disclosure is necessary to comply with such order;

“(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

“(C) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(2)(A) Any person having received a disclosure under subparagraph (A), (B), or (C) of paragraph (1) shall be subject to the prohibitions on disclosure under that paragraph.

“(B) Any person making a further disclosure authorized by subparagraph (A), (B), or (C) of paragraph (1) shall notify the person to whom the disclosure is made of the prohibitions on disclosure under this subsection.

“(3) An order under this section shall notify, in writing, the person to whom the order is directed of the nondisclosure requirements under this subsection.”.

(e) **JUDICIAL REVIEW.**—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by adding at the end the following:

“(f)(1)(A) Any person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition in the court established under section 103(a).

“(B) That petition may be considered by any judge of the court.

“(C) The judge considering the petition may modify or set aside the order if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful.

“(D) Any petition for review of a decision to affirm, modify, or set aside an order under this paragraph by the United States or any person receiving such order shall be sent to the court of review established under section

103(b), which shall have jurisdiction to consider such petitions.

“(E) The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

“(2)(A) Judicial proceedings under this subsection shall be concluded as expeditiously as possible.

“(B) The record of proceedings, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

“(3) All petitions under this subsection shall be filed under seal, and the court, upon the request of the Government, shall review any Government submission, which may include classified information, as well as the application of the Government and related materials, ex parte and in camera.”.

(f) **ENHANCED OVERSIGHT.**—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—

(1) in subsection (a), by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”; and

(2) in subsection (b)—

(A) by striking “On a semiannual basis” through “the preceding 6-month period” and inserting “In April of each year, the Attorney General shall transmit to the Congress a report setting forth with respect to the preceding calendar year”; and

(B) in paragraph (1), by striking “and” at the end;

(C) in paragraph (2), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(3) the total number of applications made for orders approving requests for the production of tangible things under section 501, and the total number of orders either granted, modified, or denied, when the application or order involved any of the following:

“(A) The production of tangible things from a library, as defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)).

“(B) The production of tangible things from a person or entity primarily engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication whether in print or digitally.

“(C) The production of records related to the purchase of a firearm, as defined in section 921(a)(3) of title 18, United States Code.

“(D) The production of health information, as defined in section 1171(4) of the Social Security Act (42 U.S.C. 1320d(4)).

“(E) The production of taxpayer return information, return, or return information, as defined in section 6103(b) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(b)).

“(c) Each report under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

“(d) In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

“(1) the total number of applications made for orders approving requests for the production of tangible things under section 501; and

“(2) the total number of such orders either granted, modified, or denied.”.



**SEC. 9. PATRIOT SECTION 505; PROCEDURAL PROTECTIONS FOR NATIONAL SECURITY LETTERS.**

(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended—

(1) by striking “A wire or electronic communication service provider” and inserting the following:

“(1) IN GENERAL.—A wire or electronic communication service provider”; and

(2) by adding at the end the following:

“(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court to modify or set aside the request. Any such motion shall state the grounds for challenging the request with particularity. The court may modify or set aside the request if compliance would be unreasonable or oppressive.”.

(b) NONDISCLOSURE.—Section 2709(c) of title 18, United States Code, is amended—

(1) by striking “No wire or electronic communication service provider” and inserting the following:

“(1) IN GENERAL.—No wire or electronic communication service provider”; and

(2) by adding at the end the following:

“(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court challenging the nondisclosure requirement under paragraph (1). Any such motion shall state the grounds for challenging the nondisclosure requirement with particularity.

“(3) STANDARD OF REVIEW.—The court may modify or set aside such a nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. In reviewing a nondisclosure requirement, the certification by the Government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.”.

(c) ENFORCEMENT OF NATIONAL SECURITY LETTERS.—Section 2709(a) of title 18, United States Code, as amended by subsection (b), is amended by adding at the end the following:

“(3) ENFORCEMENT OF REQUESTS.—The Attorney General may seek enforcement of a request under subsection (b) in an appropriate United States district court if a recipient refuses to comply with the request.”.

(d) DISCLOSURE OF INFORMATION.—

(1) SECURE PROCEEDINGS.—Section 2709 of title 18, United States Code, as amended by subsections (b) and (c), is amended—

(A) in subsection (a), by adding at the end the following:

“(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.)”; and

(B) in subsection (c), by adding at the end the following:

“(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.)”.

(2) DISCLOSURE TO NECESSARY PERSONS.—Section 2709(c)(1) of title 18, United States Code, as amended by subsection (b), is amended—

(A) by inserting after “any person” the following: “, except for disclosure to an attorney to obtain legal advice regarding the re-

quest or to persons to whom disclosure is necessary in order to comply with the request.”; and

(B) by adding at the end the following: “Any attorney or person whose assistance is necessary to comply with the request who is notified of the request also shall not disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.”.

**SEC. 10. SUNSET PROVISIONS.**

(a) MODIFICATION OF PATRIOT ACT SUNSET PROVISION.—Section 224(a) of the USA PATRIOT Act (18 U.S.C. 2510 note) is amended to read as follows:

“(a) IN GENERAL.—Except as provided in subsection (b), sections 206 and 215, and the amendments made by those sections, shall cease to have effect on December 31, 2009, and any provision of law amended or modified by such sections shall take effect on January 1, 2010, as in effect on the day before the effective date of this Act.”.

(b) EXTENSION OF SUNSET ON “LONE WOLF” PROVISION.—Subsection (b) of section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended to read as follows:

“(b) SUNSET.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall cease to have effect on December 31, 2009.

“(2) SPECIAL RULE.—With respect to any particular foreign intelligence investigation that began before the date on which the amendment made by subsection (a) ceases to have effect, section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a), shall continue in effect.”.

(c) REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.—Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 10809458; 118 Stat. 3762) is amended by striking subsection (g).

(d) TECHNICAL AMENDMENT.—Section 1(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 is amended to read as follows:

“(a) SHORT TITLE.—This Act may be cited as the ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001’ or the ‘USA PATRIOT ACT’.”.

**SEC. 11. ENHANCEMENT OF SUNSHINE PROVISIONS.**

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

“(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

“(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

“(A) All of the judges on the court established pursuant to subsection (a).

“(B) All of the judges on the court of review established pursuant to subsection (b).

“(C) The Chief Justice of the United States.

“(D) The Committee on the Judiciary of the Senate.

“(E) The Select Committee on Intelligence of the Senate.

“(F) The Committee on the Judiciary of the House of Representatives.

“(G) The Permanent Select Committee on Intelligence of the House of Representatives.

“(3) The transmissions required by paragraph (2) shall be submitted in unclassified form, but may include a classified annex.”.

(b) ENHANCED CONGRESSIONAL OVERSIGHT OF FISA EMERGENCY AUTHORITIES.—

(1) EMERGENCY ELECTRONIC SURVEILLANCE.—Section 107 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1807), is amended—

(A) in paragraph (a), by striking “and” at the end;

(B) in paragraph (b), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(c) the total number of emergency employments of electronic surveillance under section 105(f) and the total number of subsequent orders approving or denying such electronic surveillance.”.

(2) EMERGENCY PHYSICAL SEARCHES.—Section 306 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1826) is amended—

(A) in the first sentence, by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “the Senate”;

(B) in the second sentence, by striking “and the Committees on the Judiciary of the House of Representatives and the Senate”;

(C) in paragraph (2), by striking “and” at the end;

(D) in paragraph (3), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(4) the total number of emergency physical searches authorized by the Attorney General under section 304(e) (50 U.S.C. 1824(e)), and the total number of subsequent orders approving or denying such physical searches.”.

(3) EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846(b)), as amended by section 7, is amended—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 403, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”.

By Mr. INOUE (for himself and Mr. SUNUNU):

S. 1390. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUE. Mr. President, I rise today to introduce the Coral Reef Conservation Amendments Act of 2005, legislation to reauthorize and update the Coral Reef Conservation Act of 2000. I am pleased to be joined in this endeavor by Senator JOHN SUNUNU, the new Chairman of the Commerce Committee's National Ocean Policy Study, who is also greatly concerned about the fate of coral reefs and the future well-being of our coastal regions and resources.

Coral reefs, often called the “rainforests of the sea,” are among the oldest and most diverse ecosystems on

the planet. Covering less than one percent of the Earth's surface, these fragile resources provide services worth billions of dollars each year to the United States economy and economies worldwide. Coral reef resources provide economic and environmental benefits in the form of food, jobs, natural products, pharmaceuticals, and shoreline protection. In Hawaii, reef-related activities generate \$360 million each year for the State's economy, and the overall worth of our reefs has been estimated at close to \$10 billion.

However, these reefs are also under pressure from some 1.2 million residents and the seven million tourists visiting each year. Threats range from land-based sources of pollution, overfishing, recreational overuse, alien species introduction, marine debris, coral bleaching and the increased acidity of our oceans. Despite these impacts, there are still remote coral reefs that are largely intact, such as those in the Northwestern Hawaiian Islands. The continued conservation and study of these isolated reefs is necessary for understanding healthy coral reef ecosystems and restoring impacted ecosystems.

The reefs of the Northwestern Hawaiian Islands are an important nesting and breeding site for many endangered and threatened species. A Federal public designation process is underway to manage these areas as a National Marine Sanctuary, under a science-based management scheme that will accommodate multiple uses while achieving the necessary conservation goals. Increased funding and expanded Federal, State and local partnerships in this area have resulted in monitoring, mapping, and research programs have improved our understanding of the spatial and temporal dynamics of Hawaiian reefs which can be used to guide conservation and management decisions.

Through this reauthorization, we can build upon lessons learned in Hawaii and other areas and apply them throughout the United States. A mere five years ago, Congress took its first step toward addressing coral reef declines by authorizing legislation that provided targeted funding to advance our understanding and capacity to address threats to coral reefs. Since then, strong support for these programs around the country, as well as focused funding, have given us much information that will help us strengthen and refocus the legislation. The report of the U.S. Ocean Commission has further underscored the urgent need to improve management and conservation of coral reefs from a variety of threats. Our hearing on coral threats last month provided additional recommendations for changes to move from monitoring to action to improve coral conservation.

The Coral Reef Amendments Act of 2005 responds to these recommendations by increasing annual authorizations under the Coral Reef Conservation Act, starting at \$30 million in fis-

cal year 2006, and increasing to \$35 million in fiscal year 2009 to 2012. This roughly doubles the authorization levels in the existing act. It also gives priority attention to local action strategies and territorial needs, as well as on prevention of physical damage from vessel impacts. A new \$8 million Community-Based Planning Grants program is included to encourage and enhance on-the-ground efforts to develop and implement coral management and protection plans, working through appropriate Federal and State management agencies. I am particularly pleased that this grant program will encourage adoption of traditional and island-based management approaches, many of which have a long history in the Pacific region.

The bill also fills a gap in authority needed for NOAA to respond to vessel groundings on coral reefs, damage that compounds over time if left unaddressed. Grounded vessels have remained on reefs, and have been a particular problem, when there is no viable owner or when the grounding occurs under circumstances that do not allow for response under authorities such as the National Marine Sanctuaries Act or the Oil Pollution Act. The July 2, 2005, grounding of the survey vessel CASITAS in the remote Northwestern Hawaiian Islands, and the damage caused in American Samoa several years ago when a typhoon drove 9 abandoned fishing vessels onto reefs in Pago Pago harbor, highlight the vulnerability of coral reefs to groundings, and limitations of existing law and funding.

The bill responds to these needs by giving NOAA statutory authority to respond on an emergency basis to prevent or mitigate coral reef destruction from vessel or other physical impacts, including damage caused by natural disasters. The bill also authorizes NOAA to use Coral Reef Conservation Funds for these purposes, and encourages leveraging resources and assistance from other Federal agencies, as well as private sources. To assist in preventing future groundings, the bill authorizes NOAA to establish a vessel grounding inventory, identify reefs outside National Marine Sanctuaries that are at risk, and recommend measures that may be used to prevent future groundings, such as navigational aids or beacons to warn mariners.

Finally, the bill specifically directs NOAA to coordinate on the federal, state, and local levels to implement the U.S. National Coral Action Strategy.

I hope that my colleagues will join me in supporting this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1390

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Coral Reef Conservation Amendments Act of 2005."

#### SEC. 2. EXPANSION OF CORAL REEF CONSERVATION PROGRAM.

(a) PROJECT DIVERSITY.—Section 204(d) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403(d)) is amended—

(2) by striking "GEOGRAPHIC AND BIOLOGICAL" in the heading and inserting "PROJECT";

(2) by striking "40 percent" in paragraph (2) and inserting "30 percent"; and

(3) by striking paragraph (3) and inserting the following:

"(3) Remaining funds shall be awarded for—

"(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Administrator in consultation with the Coral Reef Task Force; and

"(B) other appropriate projects, as determined by the Administrator, including monitoring and assessment, research, pollution reduction, education, and technical support."

(b) APPROVAL CRITERIA.—Section 204(g) of that Act (16 U.S.C. 6403(g)) is amended—

(1) by striking "or" after the semicolon in paragraph (9);

(2) by redesignating paragraph (10) as paragraph (12); and

(3) by inserting after paragraph (9) the following:

"(10) activities designed to minimize the likelihood of vessel impacts on coral reefs, particularly those activities described in section 210(b), including the promotion of ecologically sound navigation and anchorages near coral reefs;

"(11) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems; or"

#### SEC. 3. EMERGENCY RESPONSE.

Section 206 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404) is amended to read as follows:

##### "SEC. 206. EMERGENCY RESPONSE ACTIONS.

"(a) IN GENERAL.—The Administrator may undertake or authorize action necessary to prevent or minimize the destruction or loss of, or injury to, coral reefs or coral reef ecosystems from vessel impacts or other physical damage to coral reefs, including damage from unforeseen or disaster-related circumstances.

"(b) ACTIONS AUTHORIZED.—Action authorized by subsection (a) includes vessel removal and emergency restabilization of the vessel and any impacted coral reef.

"(c) PARTNERING WITH OTHER FEDERAL AGENCIES.—When possible, action by the Administrator under this section should—

"(1) be conducted in partnership with other Federal agencies, including the United States Coast Guard, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, and the Department of the Interior; and

"(2) leverage resources of such other agencies, including funding or assistance authorized under other Federal laws, such as the Oil Pollution Act of 1990, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Federal Water Pollution Control Act."

#### SEC. 4. NATIONAL PROGRAM.

Section 207(b) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6406) is amended—

(1) by striking "and" after the semicolon in paragraph (3);

(2) by striking "partners." in paragraph (4) and inserting "partners; and"; and

(3) by adding at the end the following:

"(5) activities designed to minimize the likelihood of vessel impacts or other physical damage to coral reefs, including those activities described identified in section 210(b)."

#### SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6407) is amended to read as follows:

##### "SEC. 208. REPORT TO CONGRESS.

"Not later than March 1, 2007, and every 3 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, including—

"(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

"(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

"(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels;"

"(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems; and

"(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs."

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by striking the item relating to section 208 and inserting the following:

"208. Report to Congress."

#### SEC. 6. FUND; GRANTS; GROUNDING INVENTORY; COORDINATION.

(a) IN GENERAL.—The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by striking "organization solely" and all that follows in section 205(a) (16 U.S.C. 6404(a)) and inserting "organization—

"(1) to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef strategy under section 203; and

"(2) to address emergency response actions under section 206.";

(2) by adding at the end of section 205(b) 16 U.S.C. 6404(b)) "The organization is encouraged to solicit funding and in-kind services from the private sector, including non-governmental organizations, for emergency response actions under section 206 and for activities to prevent damage to coral reefs, including activities described in section 210(b)(2).";

(3) by striking "the grant program" in section 205(c) (16 U.S.C. 6404(c)) and inserting "any grant program or emergency response action";

(4) by redesignating sections 209 and 210 as sections 212 and 213, respectively; and

(5) by inserting after section 208 the following:

#### "SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

"(a) IN GENERAL.—The Administrator may make grants to entities who have received grants under section 204(c) to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and the best scientific information available as high priorities for focused attention. The plans shall—

"(1) support attainment of 1 or more of the criteria described in section 204(g);

"(2) be developed at the community level;

"(3) utilize watershed-based approaches;

"(4) provide for coordination with Federal and State experts and managers; and

"(5) build upon local approaches or models, including traditional or island-based resource management concepts.

"(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, '25 percent' shall be substituted for '50 percent'.

#### "SEC. 210. VESSEL GROUNDING INVENTORY.

"(a) IN GENERAL.—The Administrator may maintain an inventory of all vessel grounding incidents involving coral reef resources, including a description of—

"(1) the impacts to such resources;

"(2) vessel and ownership information, if available;

"(3) the estimated cost of removal, mitigation, or restoration;

"(4) the response action taken by the owner, the Administrator, the Commandant of the Coast Guard, or other Federal or State agency representatives;

"(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

"(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

"(b) IDENTIFICATION OF AT-RISK REEFS.—The Administrator may—

"(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef areas outside designated National Marine Sanctuaries that have a high incidence of vessel impacts, including groundings and anchor damage; and

"(2) identify appropriate measures, including action by other agencies, to reduce the likelihood of such impacts.

#### "SEC. 211. REGIONAL COORDINATION.

"The Administrator shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting."

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating the items relating to sections 208 through 211 as relating to sections 211 through 214; and

(2) by inserting the following after the item relating to section 207:

"209. Community-based planning grants.

"210. Vessel grounding inventory.

"211. Regional coordination."

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the Coral Reef Conservation Act of 2000 (formerly 16 U.S.C. 6408), as redesignated by section 6, is amended—

(1) by striking "\$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004," in subsection (a) and inserting "\$30,000,000 for fiscal year 2006, \$32,000,000 for fiscal year 2007, \$34,000,000 for fiscal year 2008, and \$35,000,000 for each of fiscal years 2009 through 2012, of which no less than 30 percent per year (for each of fiscal years 2006 through 2012) shall be used for the grant program under section 204 and up to 10 percent per year shall be used for the Fund established under section 205,";

(2) by striking "\$1,000,000" in subsection (b) and inserting "\$2,000,000"; and

(3) by striking subsection (c) and inserting the following:

"(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Administrator to carry out section 209 the sum of \$8,000,000 for fiscal years 2007 through 2012, such sum to remain available until expended.";

(4) by striking subsection (d).

By Mr. LAUTENBERG (for himself, Mr. JEFFORDS, Mrs. BOXER, Mr. KERRY, Mr. CORZINE, Mrs. CLINTON, and Mr. KENNEDY)

S. 1391. A bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise today to introduce the Child, Worker and Consumer Safe Chemicals Act of 2005. Senators JEFFORDS, BOXER, KERRY, CORZINE, CLINTON and KENNEDY are cosponsors of this legislation.

Every day, Americans use household products that contain hundreds of chemicals. Most people assume that those chemicals have been proven safe for their families and children. Unfortunately, that assumption is wrong. Many chemicals that have been in use for decades have never been tested for their health effects.

Over 40 years ago Rachel Carson, in her book *Silent Spring*, warned about the danger of using chemicals that had not been fully tested. Today, nearly all of those same chemicals are still being used—yet to this day most of them have never been tested for their health effects.

Many of these chemicals perform amazing services and make our lives easier. But in recent years study after study has raised concerns about some of the chemicals that are used in thousands of products.

For instance, take the common baby bottle. Many baby bottles contain the chemical "Bisphenol A" which at very low doses has been shown to affect reproduction, the immune system, brain chemistry, behavior and more. How great is the risk of using Bisphenol A in baby bottles, water bottles and other everyday products? The answer is "we don't know."

Mothers have every right to expect their babies to be safe from exposure to toxic chemicals—before and after birth. We have laws to make sure that pesticides and medicines are safe—and even toys. But we fail to require similar assessments for the chemicals used in baby bottles, water bottles, food packages and thousands of other products. This is inexcusable.

But the current law, known as "Toxic Substances Control Act" (TSCA) actually sets up roadblocks to EPA getting the vital information it needs to determine whether these chemicals are safe. So last year, I asked the Government Accountability Office (GAO) to assess TSCA to determine how effective it has been in doing the job of protecting public health and the environment.

In the GAO report released today, *Chemical Regulation: Options Exist to Improve EPA's Ability to Assess Health Risks and Manage its Chemical Review Program*, we learn that TSCA is such an ineffective and burdensome law that it often fails to protect our children, workers and the general population from exposure to carcinogens such as asbestos—for which there is no safe level of exposure.

According to the GAO, only five chemicals that existed 29 years ago when Congress passed TSCA have ever been restricted by EPA. In 29 years, the agency has formally requested health and environmental effects information on just 200 chemicals—out of about 80,000.

The GAO reports, "EPA does not routinely assess existing chemicals and has limited information on their health and environmental risks." It adds, "EPA lacks sufficient data to ensure that potential health and environmental risks of new chemicals are identified."

Children are the most sensitive population to chemical pollutants and we must protect that sacred bond between a mother and her child. Again, it is inexcusable that our laws require extensive data to approve pesticides and pharmaceuticals as safe—but fail to require similar analysis for the chemicals used in baby bottles, water bottles, food packages and thousands of other products.

That is why today I am introducing The Child-Safe Chemicals Act. My bill will establish a safety standard that each chemical on the market must meet. It shifts the burden for proving that chemicals are safe from EPA to the chemical manufacturers. Under my bill, the manufacturers must provide the EPA with whatever data it needs to determine if a chemical use meets the safety standard. And the bill strengthens EPA's authority to restrict the use of chemicals which fail to meet that standard.

I have ten grandchildren . . . and I believe we have a sacred duty to protect the health of infants and children. I agree with Daniel Maguire, a professor of religious ethics at Marquette University who stated, "As a principle of ethics, whatever is good for kids is good; whatever is bad for kids is ungodly."

My bill has been endorsed by the American Public Health Association and many of the nation's leading pediatricians. The American people have a right to assume that the products they use are safe. This bill will help guarantee that right.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Kid Safe Chemicals Act with Senators LAUTENBERG, BOXER, KERRY, CORZINE, CLINTON and KENNEDY. The purpose of the bill is simple—improve children's health by reducing exposure to harmful toxic chemicals in everyday consumer products.

Synthetic chemicals play an integral role in the US economy and in enhancing our quality of life. Yet—like most Americans—I assumed basic safeguards were in place to ensure that chemicals widely used in household products were first determined to be safe. Sadly, this assumption is false.

A new report, issued today by the Government Accountability Office, shows that most chemicals used in consumer products today have never undergone any Federal safety review. Further, the report demonstrates that EPA lacks the necessary legal tools to protect our children from harmful chemicals. The report, which I requested along with Senators LAUTENBERG and LEAHY, is titled "Chemical Regulation: Options Exist to Improve EPA's Ability to Assess Health Risks and Manage its Chemical Review Program."

To all people who care about our children's health, GAO's conclusions should be a call to action. Three findings merit particular attention.

First, GAO found that "EPA does not routinely assess the human health and environmental risks of existing chemicals and faces challenges obtaining the information necessary to do so." For example, the Agency has required testing for fewer than 200 of the 62,000 chemicals used in commerce since EPA began reviewing chemicals in 1979.

Additionally, GAO found that "EPA's reviews of new chemicals provide limited assurance that health and environmental risks are identified before the chemicals enter commerce." According to the report, chemical companies generally do not test new chemicals for toxicity or gauge human exposure levels before they are submitted for EPA review, forcing the Agency to rely on predictive modeling that "does not ensure that the chemicals' risks are fully assessed before they enter commerce."

Finally, even when EPA has toxicity and exposure information on chemicals showing significant health risks, GAO found that the Agency has difficulty overcoming the legal hurdles needed to take action. As a result, in almost three decades, EPA has issued regulations to ban or limit the production or restrict the use of only five chemicals.

Our toxic ignorance would be less alarming if it wasn't coupled with overwhelming evidence of widespread human exposure. Study after study—including those by the Centers for Disease Control—have found a cocktail of synthetic chemicals in the blood and tissue of most people tested. For example, bio-monitoring studies have found Bisphenyl A, a chemical used in plastic baby pacifiers, water bottles, and food

and beverage containers, in 95 percent of people tested. Similarly, chemicals such as P-FOA, which is used in non-stick Teflon pans, and polybrominated diphenyl ethers, used as flame retardants, are regularly found in breast milk and fetal liver tissue.

To be clear, the health effects of these chemicals are unknown. Unknown because no one is required to look. We do know, however, that most of us are carrying in our bodies dozens—if not hundreds—of synthetic chemicals to which our grandparents were never exposed. We also know that the incidence of certain cancers and neurological and developmental disorders linked to chemical exposure are on the rise.

The Kid Safe Chemical Act would fundamentally overhaul the nation's chemical management framework. First, it would protect kids by requiring chemical manufacturers to perform basic testing of their products. Second, it would reduce our toxic ignorance by providing much needed hazard and exposure information to EPA and the public. Third, using a science based, worst-first priority system, EPA would be required to determine the safety of 300 chemicals within the next five years. By 2020, all chemicals distributed in commerce would need to meet the safety standard.

To avoid imposing an undue burden on industry, the Kid Safe Chemicals Act relies on essentially the same safety standard as the Food Quality Protection Act, which passed the Gingrich-Lott Congress unanimously and which chemical manufacturers themselves have complied with for the past decade. In short, chemical manufacturers would need to establish to EPA that there was "a reasonable certainty of no harm" before distributing their chemicals in commerce. A ten-fold safety factor would be built in to account for the unique sensitivity of children.

Finally, the Kid Safe Chemicals Act encourages innovation of less toxic chemicals by removing existing disincentives and initiating a safer alternatives and green chemistry program.

As a result, the bill has been endorsed by a wide array of public health groups, such as the Breast Cancer Fund, the Center for Children's Environmental Health, and the American Public Health Association.

I believe that the Kid Safe Chemicals Act represents a rational, common sense approach to reducing children's exposure to toxic chemicals.

By Mr. SMITH (for himself and Mr. DORGAN):

S. 1392. A bill to reauthorize the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senator DORGAN to introduce the FTC Reauthorization Act of 2005.

As the chairman of the Subcommittee on Trade, Tourism, and

Economic Development, I am pleased to have Senator DORGAN, the ranking member of the subcommittee join me to introduce this important bill. Our subcommittee has jurisdiction over the Federal Trade Commission and its missions and this legislation would reauthorize the FTC from fiscal year 2006 through 2010.

The FTC reauthorization bill is important for the FTC to carry out its critical mission of preventing unfair competition and protecting consumers from unfair or deceptive acts or practices in the marketplace.

The responsibility to protect consumers is quite broad and includes a wide array of deception and unfair business practices, including price fixing, telemarketing fraud, Internet scams, and consumer identity theft.

As a product of its responsibilities, the FTC plays a vital role in maintaining integrity in the marketplace and strengthening our economy.

This legislation authorizes appropriations to fund the FTC's operations including moneys for efforts to secure data privacy and to combat spyware and identity theft. These are areas that have posed an increased threat to consumers recently, affecting millions of consumers with a pricetag to society in the billions of dollars.

The services and protections the FTC performs for consumers are invaluable and we need to pass an authorization bill, which it has operated without since 1998.

I urge my colleagues to support this legislation and its expeditious passage through the Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1392

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "FTC Reauthorization Act of 2005."

#### SEC. 2. REAUTHORIZATION.

The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed \$213,000,000 for fiscal year 2006, \$241,000,000 for fiscal year 2007, \$253,000,000 for fiscal year 2008, \$264,000,000 for fiscal year 2009, and \$276,000,000 for fiscal year 2010."

By Mr. VITTER:

S. 1393. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for reimbursement of certain for-profit hospitals; to the Committee on Homeland Security and Governmental Affairs.

Mr. VITTER. Mr. President, I rise to introduce the Hospital Emergency Reimbursement Act of 2005. This bill will help ensure the safety of many patients, elderly residents, and those who

require critical care during the event of a hurricane or other disaster.

Each year, natural disasters place millions of Americans in harm's way. Hurricanes, floods, and other hazards pose a particular danger to people with special needs. Many patients depend on technology to keep them alive. For them, electricity is a necessity that makes lengthy evacuations a life-threatening race against the clock. These patients must be sheltered in medical facilities with reliable power generators that will perform during a severe storm and during the immediate recovery period after the storm.

Providing for their safety is precisely why I am introducing the Hospital Emergency Reimbursement Act. This bill will enable the Federal Emergency Management Agency, under certain circumstances, to reimburse private for-profit hospitals that shelter special needs patients during federally declared disasters.

Currently, FEMA only has the authority to reimburse a hospital for sheltering if it is a public or nonprofit institution. However, the number of these facilities is shrinking in many communities. The guidelines for providing assistance must acknowledge this reality. Last year in Louisiana, two people with critical needs died in transit from New Orleans to a temporary public facility in Baton Rouge in the evacuation for Hurricane Ivan. With every storm or evacuation order, tens of thousands of families with relatives in critical condition scramble to make arrangements to protect their loved ones.

By allowing reimbursement to additional private facilities, the Hospital Emergency Reimbursement Act of 2005 would promote the safety of Americans around the Nation by allowing greater flexibility during an emergency. The amount of reimbursement provided by FEMA under this bill would be limited to the same amount available to public and nonprofit facilities. Furthermore, funds would be available to for-profit hospitals when public and nonprofit facilities within a 30-mile radius have met or exceeded their capacity. Under this measure, public and non-profits still are used first for emergency needs, with private for-profit hospitals available as backup to ensure that everyone in a medically critical condition is covered.

I urge my colleagues to support the Hospital Emergency Assistance Act of 2005.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 197—TO COMMEMORATE THE 60TH ANNIVERSARY OF THE TRINITY TEST, THE CULMINATION OF THE MANHATTAN PROJECT, AND TO HONOR THE PEOPLE WHO MADE IT POSSIBLE

Mr. DOMENICI (for himself and Mr. CRAPO) submitted the following resolution;

which was referred to the Committee on Energy and Natural Resources:

S. RES. 197

Whereas the Trinity Test of July 16, 1945, in Alamogordo, New Mexico, the detonation of the first atomic device, demonstrated scientific and engineering capabilities applied to understanding the atom and for the first time the practical application of nuclear fission, changing mankind's understanding of the universe;

Whereas the Manhattan Project, the project for the development of that device, involved the labors of 130,000 men and women over 28 months at a cost of more than \$2,200,000,000, and was one of the largest single scientific and engineering endeavors in history;

Whereas the fruits of the Manhattan Project brought an early end to World War II and saved the lives of countless military and civilian personnel on all sides in that conflict;

Whereas the scientific accomplishments demonstrated by the Manhattan Project provided a new era of technological development resulting in clean energy sources, new medical technologies, supercomputers, and a host of new materials and processes;

Whereas the Manhattan Project was a model for collaboration between the Government, the private sector, and United States institutions of higher education, as well as scientists and engineers of all nationalities, who worked to preserve freedom;

Whereas the success of the Manhattan Project played a central role in the development of the modern research enterprise in the United States, including the establishment of the National Science Foundation and the National Institutes of Health; and

Whereas, with the passage of time, it becomes more important to preserve the historic facilities used during the Manhattan Project, and to honor those remaining men and women who took part in it:

Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the significance of the 60th anniversary of the Trinity Test of July 16, 1945, in Alamogordo, New Mexico, the detonation of the first atomic device, as marking one of the one of the seminal events in human history and one that epitomizes the American spirit;

(2) acknowledges the brilliance and dedication of the men and women of all nationalities who strove so valiantly to make it happen; and

(3) recognizes the critical role of science and technology in keeping our Nation free and prosperous.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1218. Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, Mr. SARBANES, Mr. REED, Mrs. CLINTON, Mr. SCHUMER, Mr. KENNEDY, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. DAYTON, Mr. CORZINE, Mrs. BOXER, Mr. KERRY, Mr. BIDEN, and Mr. ROCKEFELLER)) proposed an amendment to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

SA 1219. Mr. ENSIGN (for himself, Mr. MCCAIN, and Mr. GRAHAM) proposed an amendment to amendment SA 1124 proposed by Mr. ENSIGN to the bill H.R. 2360, *supra*.

SA 1220. Mr. GREGG proposed an amendment to amendment SA 1205 proposed by Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mrs. DOLE, Mr. DODD, Mr. SCHUMER,

Ms. STABENOW, Mr. CORZINE, Mr. BYRD, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. KERRY) to the bill H.R. 2360, *supra*.

SA 1221. Mr. GREGG (for Mr. HATCH) proposed an amendment to amendment SA 1171 proposed by Mr. MCCAIN TO THE BILL H.R. 2360, *SUPRA*.

#### TEXT OF AMENDMENTS

SA 1218. Mr. REID (for Mr. BYRD, (for himself, Mr. INOUE, Mr. SARBANES, Mr. REED, Mrs. CLINTON, Mr. SCHUMER, Mr. KENNEDY, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. DAYTON, Mr. CORZINE, Mrs. BOXER, Mr. KERRY, Mr. BIDEN, and Mr. ROCKEFELLER)) proposed an amendment to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 77, line 18, strike "\$2,694,300,000" and insert "\$4,025,300,000".

On page 78, line 13, strike "\$365,000,000" and insert "\$1,696,000,000".

On page 79, strike lines 1 through 4 and insert the following:

(D) \$265,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code) and freight rail and \$1,166,000,000 for transit security grants; and

SA 1219. Mr. ENSIGN (for himself, Mr. MCCAIN, and Mr. GRAHAM) proposed an amendment to amendment SA 1124 proposed by Mr. ENSIGN to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Strike all after the first word and insert the following: page 77, line 20, insert "of which \$367,551,000 may be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and" after "local grants."

SA 1220. Mr. GREGG proposed an amendment to amendment SA 1205 proposed by Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mrs. DOLE, Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. BYRD, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. KERRY) to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Strike all after the first word and insert the following:

grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, \$2,694,299,000, which shall be allocated as follows:

(1) \$1,417,999,000 for State and local grants, of which \$425,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for formula-based grants: Provided, That the balance shall be allocated by the Secretary of Homeland Security to States, urban areas, or regions based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to Homeland Security Presidential Directive 8 (HSPD-8).

(2) \$400,000,000 for law enforcement terrorism prevention grants, of which

\$155,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for law enforcement terrorism prevention grants: Provided, That the balance shall be allocated by the Secretary to States based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to HSPD-8.

(3) \$465,000,000 for discretionary transportation and infrastructure grants, as determined by the Secretary, which shall be based on risks, threats, and vulnerabilities, of which—

(A) \$195,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(B) \$5,000,000 shall be for trucking industry security grants;

(C) \$15,000,000 shall be for intercity bus security grants;

(D) \$200,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(E) \$50,000,000 shall be for buffer zone protection plan grants."

SA 1221. Mr. GREGG (for Mr. HATCH) proposed an amendment SA 1171 proposed by Mr. MCCAIN to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

(A) On line 3, page 2, strike "." and insert "..."

(B) Add at the end, "Provided that the balance shall be allocated from the funds available to the Secretary of Homeland Security for States, urban areas, or regions based on risks; threats; vulnerabilities pursuant to Homeland Security Presidential Directive 8 (HSPD-8)."

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing, entitled *Climate Change Science and Economics*, will be held on Thursday, July 21 at 10 a.m. in Room SH-216.

The purpose of the hearing is to receive testimony regarding the current state of climate change scientific research and the economics of strategies to manage climate change. Issues to be discussed include: the relationship between energy consumption and climate change, new developments in climate change research and the potential effects on the U.S. economy of climate change and strategies to control greenhouse gas emissions.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Sen-

ate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact: Steve Waskiewicz at 202-224-7555.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 13, 2005, at 9:30 a.m., to receive testimony on the investigation into FBI allegations of detainee abuse at the Guantanamo Bay, Cuba Detention Facility.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 13, 2005, at 10 a.m., to conduct a hearing on "Money Laundering and Terror Financing issues in the Middle East."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, July 13, 2005, at 9:30 a.m. for a hearing titled, "Chemical Facility Security: What Is the Appropriate Federal Role?"

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Habeas Corpus Proceedings and Issues of Actual Innocence" on Wednesday, July 13, 2005, at 9:30 a.m. in Dirksen 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON AVIATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Wednesday, July 13, 2005, at 10 a.m., on the Financial Stability of the Airlines.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on July 13, 2005, at 9:30 a.m., to hold a hearing to discuss the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.



The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ARMY PFC MEGAN ADELMAN-TENNY

Mr. DEWINE. Mr. President, next week, on Saturday, July 23, people of all ages will gather for a special 5K race in Alliance, OH. This race will benefit the Megan Adelman-Tenny Foundation, which was set up in memory of Army PFC Megan Adelman-Tenny, who was killed in an airborne training accident on January 25, 2005, when her parachute failed to open. She was 19 years old.

This foundation will award an annual scholarship to a high school student who has participated in cross-country, has lettered in the sport, and who possesses the same attributes that made Megan such a special person. I rise today to pay tribute to Megan and to celebrate those attributes—her zest for life, her zeal for organization, and her unmatched competitiveness.

According to her mother Melissa, Megan grew up as a “tomboyish” girl. She was always outside, riding her bike or rollerblading. She never backed down from her older siblings and twin-brother, Matt. She was always speaking her mind and asserting her will. Her sister, Tina, describes her as “energetic and full of life. She was a kick-butt girl. She took no prisoners. She didn’t let anything hold her back.”

Indeed, Megan was someone who lived her life to the fullest. At Alliance High School, Megan played the violin, sang in the choir, and ran on the cross-country team. Starting her sophomore year, Megan also worked part-time at McDonald’s. Her involvement in all these activities left her just enough time to spend with her junior high and high school sweetheart—the love of her life—Joshua Tenny.

As a testament to Megan’s penchant for living in the moment, she and Joshua eloped on December 22, 2004. Her older brother, Marcus, remembers the surprising elopement:

I picked Megan and Joshua up, and we were driving to the Best Buy store in Canton, and Megan told me they needed to make a stop first because they wanted to get married. So, we went to the municipal building in Canton. They filled out all the paperwork for their marriage license and were getting excited. . . . It was spur-of-the-moment, but they wanted to get married and be together.

While Megan lived her life as it came to her, she was also the type of person who made plans, set goals, and did her best to fulfill them.

As a member of the cross-country team, Megan took responsibility for packing the medical bag, organizing meets, and taking care of her twin-brother. According to their mom, Megan acted as another mother to

Matt. She cooked for him, cleaned his room, and packed his cross-country bag before meets.

In addition to being exceptionally organized, Megan was also a fierce competitor. In junior high school, she faced the choice between two sports: basketball and cross-country. Megan decided to join the cross-country team, an individual sport in which the athletes must compete with other runners, as well as their own bodies.

Megan excelled. She was a fantastic runner, qualifying for the State meet three times. She was a leader on her team and inspired others to do their best. Her track coach, Al Eibel, remembers Megan as a hard worker who never complained. During the 2002 season, Megan was clipped by a car mirror while on a practice road-run. Though she didn’t break it, her arm was badly bruised and swollen. Even though she could barely move her arm, Megan competed a few days later. Coach Eibel recalls Megan’s perseverance:

I know she was in pain, but she didn’t say a word. She ran, and by districts, she was fine. Everyone knew we’d always be able to count on Megan.

Upon graduating from high school, Megan knew that it wasn’t the right time for her to go to college. She didn’t feel particularly drawn to it and, with two siblings already attending Ohio University, Megan knew it would be a financial hardship for her family. Instead of college, Megan made a plan to serve 4 years in the Army, with her husband Joshua, and then start a family. She reserved a place for college at a later time, if she felt inclined to go.

Her mother remembers Megan’s decision to join the Army:

She thought about it and came to the conclusion she was going to do it. And, she went in and did it with gusto.

Megan completed advanced individual specialty training in human resources and was part of the 82nd Airborne at Fort Bragg, NC. Megan’s organizational skills and attention to detail allowed her to breeze through basic training. At one point, she even mentioned to her mother that she might want to become a drill sergeant. Her mother said:

Well, you’re bossy and you’re organized—I don’t see what would keep you from doing it.

It didn’t surprise anyone when Megan was the strongest woman and fastest person in her basic training unit. She earned the nickname “Speedy Gonzales” from others in her unit because of her running ability. Megan was not someone who held back when it came to competition and she never backed down from anyone or anything.

Her brother, Marcus remembers Megan crying during boot-camp, not because it was difficult, but because she felt others were not taking it as seriously as she was. That’s just the type of person Megan was. She was passionate about the things and the people she cared about.

Marcus talked to his sister after she had completed her first training jump

with the 82nd Airborne. Megan, who was always something of a daredevil, had “loved the jump.” She told her brothers and sister that they would have to try sky diving with her. Megan was also extremely excited about her next jump and her career in the Army. Frankly, Megan was just excited about life.

Any person who devotes a large part of their time and effort to competitive running has probably seen the movie “Chariots of Fire.” In the film, one of the characters asks the question: “[W]here does the power come from to see the race to its end?” The answer to this question is, “From within.”

Megan Adelman-Tenny had that power, that passion, that drive from within, which allowed her to accomplish anything she set her mind to. She was someone who, like any good runner, took things step by step, while also keeping the finish line in sight.

On July 23, many people will run and walk 5 kilometers in memory of Megan. And, with each step taken, they honor her life.

As I think about Megan’s short, but full life, I am reminded of a very familiar passage from the Bible, a passage from St. Paul’s second letter to Timothy, in which St. Paul said:

[T]he time of my departure has come. I have fought the good fight. I have finished the course. I have kept the faith.

There is no question, Megan Adelman-Tenny fought the good fight. She finished the course. She kept the faith. Megan was truly a wonderful young woman, whom we will never forget.

My wife, Fran, and I continue to keep Megan’s husband, Joshua, her parents, Mark and Melissa, her sister Tina, and brothers Marcus and Matt in our thoughts and in our prayers.

#### MARINE CORPORAL RICHARD GILBERT, JR.

Mr. DEWINE. Mr. President, I rise today to pay tribute to Marine Cpl Richard Gilbert, Jr., from Dayton, OH, who gave his life in the defense of freedom on January 26, 2005. Richard lost his life in a helicopter accident near the town of Rutba, Iraq. Thirty-one service members lost their lives in this tragic accident.

Having just completed major operations in Fallujah, Richard and his unit were on their way to help secure Iraq for the upcoming elections. They sacrificed their lives standing up for freedom and standing against terror and tyranny. Like his comrades who perished with him, Richard Gilbert gave his body, will, and soul to his country and for his country. For that I wish to honor him this evening.

Richard Gilbert was born on May 12, 1978. He was a caring boy, who loved animals and being outdoors. He hated when people cried. His mother, Helen, recalls that if Richard saw anyone around him crying, he would go over to them, throw one of his small arms

around their shoulders, and tell them it was "ok."

As Richard grew up, he made friends, played Little League, and followed his favorite sports teams. He was an avid fan of the University of Dayton Flyers basketball team and The Ohio State University football team. His support of the Buckeye's football team, however, caused a bit of tension in the Gilbert home every year in the late fall. It seems Richard's brother was a Michigan Wolverines fan and according to their mother, when the Wolverines and the Buckeye's squared off, "You didn't even want to be near the house when those boys watched the game!"

When Richard wasn't discussing football with his brother, he was often found discussing something with somebody. He was an incredibly articulate and intelligent young man, able to spout facts about anything from sports to religion to politics. His friends would often call Richard over if they were having a dispute and needed someone with the knowledge to settle it.

Richard also loved music. He was a self-taught guitarist, who composed his own music. According to friends, he loved heavy metal and he was always at peace when composing or playing his guitar.

Of all his interests, however, Richard's greatest love was of politics. After discovering that President Harry Truman was one of his distant cousins, Richard made it his goal to ascend one day to that same office. His passion for politics earned him the nickname "The Governor" from his friends, and his mother jokingly recalls that, "[h]e was a natural-born politician. When you asked him a question, he'd talk for a half-hour and never give you an answer!"

Richard had hopes of running either for Mayor of Dayton or the Dayton City Commission after he returned from Iraq. I remember being at calling hours and talking with people who told me about his aspirations, and how they thought he would be a great politician, a great public servant. He would have been great in either position.

Richard was, like many of our service men and women, deeply affected by the terrorist attacks of September 11, 2001. Prior to the attacks, he was working on the assembly line at Behr Dayton Thermal Products. He had just purchased a house, not far from his mother. Richard was also studying political science at Sinclair Community College. He had thought about joining the military, but had held back because he didn't want to cut his long hair.

After September 11, however, Richard saw a clear duty to his country and to protecting all of us from future threats. In December 2001, he joined the Marines, where he was assigned to the 1st Battalion, 3rd Marine Regiment, of the 31st Marine Expeditionary Unit based in Hawaii. His lifelong friend, Marine SSgt Lonnie McMurchy, remembers the phone call he got from

Richard. Lonnie tried to talk him out of the Marine infantry, telling Richard that his intelligence would be more valuable in another area that might also be less dangerous, but, according to Lonnie, "He wanted it. He wanted the infantry. He wanted to go fight [and] defend our country."

In joining the Marines, Richard stood up for freedom, leaving behind a good paying job, a new house, and his beloved friends and family. He put his life on hold so that we could safely go on with our own.

Richard served our Nation with a dedication and fervor that was noteworthy even to one of his fellow Marines. According to JJ Holmes, who wrote in an email message on an Internet tribute to Richard:

I served with Gilbert, and we became very good friends, which is saying a lot, because I didn't make many good friends while I was in the Marines. I guess it's because I'm picky about the company I keep. And it doesn't get much better than Gilbert to have as a friend. We had very different religious and political views, yet it never hindered our relationship, because we had a mutual respect for each other.

I know this though, out of all the Marines in our Company, Gilbert never complained once about his duty to his country. I could see every day I spent with him how proud he was to serve. Not to diminish the belief of all the other Marines in their duty, Gilbert shined a little more. His dedication was unwavering. [He was] an example to all Marines. I know without a doubt through our conversations we had sitting on the backs of our packs waiting to move out, that if Gilbert had to go, he wanted to leave us the way he did—fighting for the country he believed in more than anything.

As a child, Richard wrote an essay about his father, Richard Gilbert, Sr., who was a Vietnam veteran. In the essay, Richard described his dad as a hero. Today, Mr. Gilbert says this of his son: "[H]e was my hero, and he was the bravest person I ever met."

This sentiment was echoed by his friend, Lonnie McMurchy: "He was a warrior. He was a son, a brother, an uncle, a friend, and a U.S. Marine. He wanted nothing more and nothing less."

Richard Gilbert wanted our country to be safe from the dangers of terrorism, and he wanted the Iraqi people to be safe and free. He gave everything he had for those things, as they were the things in which he so firmly believed. Richard stood so that freedom could flourish. We will never forget his service and his sacrifice.

My wife, Fran, and I continue to keep his family and friends in our thoughts and in our prayers.

#### ARMY SERGEANT CHARLES "CHUCK" WEBB

Mr. DEWINE. Mr. President, this evening I honor the life of Army SGT Charles "Chuck" Webb, from Hamilton, OH. Chuck was a member of Company A, 82nd Engineering Battalion, 1st Infantry, Division, based out of Bamberg, Germany. On November 3, 2004, Ser-

geant Webb was killed near Salman Pak, Iraq, when a roadside bomb detonated. He was 9 days shy of his 23rd birthday.

Days before his death, Chuck had told his squad that he didn't want them in harm's way if he could help it and that he would be taking the lead whenever possible. That was the kind of person Chuck was—always looking out for others, always giving them strength, always keeping them safe.

Chuck was born in San Antonio, TX, on November 12, 1981. He moved with his family to Hamilton when he was in sixth grade. Chuck was an easy going, likable kid. He had a passion for history, especially World War II history. He and his father, Conley, could talk at length on the subject, and Chuck was known for his ability to recall facts and figures from specific battles.

Conley, a veteran of Vietnam and Desert Storm, was also the source of Chuck's interest in the military. Chuck's sister, Teresa, remembers when Chuck was 5 years old, and the family dressed him up in his father's BDU's and gave him a plastic machine gun. They took pictures of Chuck dressed up in his father's uniform in front of a large American flag. Teresa says he looked like a "miniature G.I. Joe."

Chuck was proud of his military heritage, and his family and friends were proud of the person Chuck became. His junior high school principal, Tom Alf, remembers Chuck as "a fine young man—quiet and polite. I remember his smile . . . he always had a smile."

Chuck also always had an eye out for others. His sister, Teresa, remembers a phone call she got from her brother in the dead of winter a few years ago. "Teresa," Chuck said, "I need a huge favor." Apparently, Chuck had been approached by a homeless man asking for money. The man had no coat and instead of money, Chuck gave him the coat off his back. He then struck up a conversation with the man and found out that he was trying to get to the other side of the city to meet his wife and kids. That's when Chuck called his sister to come and pick up his new friend and give him a ride.

"That's just the kind of guy Chucky was," Teresa recalled, "He'd give you the coat off his back if you needed it."

In 2000, Chuck graduated from Hamilton High School. He still had a passion for history and had determined he wanted to become a teacher. Chuck decided to take advantage of the G.I. Bill, while also following in his father's footsteps. Just weeks after graduation, the boy who had once posed as a "miniature G.I. Joe," became the real thing when he enlisted in the Army.

During basic training, Chuck broke his foot. He was also, at this time, set to marry his high school sweetheart, Stephanie. Chuck wanted everything to be perfect on that day and had his tuxedo specially altered so that the cast on his foot would be unobtrusive.

Friends remember Chuck being incredibly happy on his wedding day, shedding tears as he said his vows. Chuck was a very sensitive person, who wore his emotions on his sleeve.

The same qualities that made Chuck an exceptional human being made him an exceptional soldier. He was beloved by his fellow service men and women. In a deployment to Kosovo, Chuck earned the nickname "Cabbage Patch," because of, what his sister Teresa describes as, "his chunky face, deep blue eyes, and blonde hair." His buddies made a gift of a modified cabbage patch kid to Chucky by giving the doll a "high and tight" hair cut, adding some tattoos, and dressing it in tiny BDU's. Chuck's mother still has that doll. It sits in a room dedicated to her son in Alexandria, AL.

In Iraq, Chuck led a squad of 10 men. They specialized in mine clearing, bridge building, and in assisting the Iraqi patrols. Their mission was one of rebuilding and security. In carrying out this mission, Chuck was known for protecting his men, putting their safety before his own. He often led patrols, "on point," meaning he was out front in combat formations, leaving himself the most exposed to danger. This leadership style led to a Purple Heart, when Chuck was wounded by shrapnel from a previous roadside explosive, and earned him the admiration of his fellow soldiers.

SSG Scott Swanson speaks for many of those who knew Chuck when he said this:

[He] was a great NCO—one who soldiers looked up to for knowledge, strength, and most of all, courage. I'm honored to be able to call [Chuck] my brother in arms.

In an email posted on an Internet tribute to Chuck, fellow serviceman Sergeant Shane Uras, wrote the following:

Chuck—it's been two months now, and I'm still having trouble getting it through my head that you're gone. I love you bro, and there's not a day that goes by that your memory doesn't make me a stronger person. You were my best friend and godfather to my son Luca. . . . We are having a huge party when we get back in your memory and were going to send the video of it and other videos to your parents so they understand how big a part you played in our lives while you were away from them. I love you man, and I'm proud to have known you. Your country is grateful for your sacrifice—I know my family and I are. God bless you Chuck!

It is hard to lose someone like Chuck Webb. He was the anchor of his unit. His comrades looked to him for strength and depended on him to keep them safe. Such a role was not new for Chuck. His life was one of service to others. He was a caring, sensitive, devoted person who, quite literally, would—and did—give the "coat off his back."

The following lines, from Emily Dickinson, seem, in a way, to have guided Chuck's life. She wrote:

"If I can stop one heart from breaking,  
I shall not live in vain.  
If I can ease one life the aching,

Or cool one pain,  
Or help one fainting robin unto his nest  
again,  
I shall not live in vain."

Chuck Webb was a good person, who cared so much—so deeply—about others. We owe it to him to celebrate his life—a life devoted to easing the aches and cooling the pains of so many others. It is in these good deeds that his memory lives on.

My wife, Fran, and I continue to keep Chuck's family and in our thoughts and in our prayers.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IMMIGRATION

Mr. SESSIONS. Mr. President, I will make some remarks on an amendment I have offered—S.A. 1140—along with Senators HATCH and GRASSLEY that is dealing with the appropriation of \$5 million, with that amount equally divided between two purposes. One, facilitating the Department of Homeland Security entering into memorandums of understanding with States and localities under section 287(G) of the Immigration and Naturalization Act. That is, the ability to enter into memorandums or agreements with States and localities in order that they may participate in a positive way in helping enforce the immigration laws of the United States. And, two, reimbursing States and localities for the costs they incur in training their law enforcement officers under these memorandums of understanding. Reimbursement would be permitted for expenses such as those related to travel and transportation to the training location, subsistence payments or per diem allowance and costs for securing temporary replacements for law enforcement personnel who are participating in the Federal training.

I am pleased Senators HATCH and GRASSLEY have cosponsored the amendment. I hope each of my colleagues will carefully consider it and vote for its passage.

The amendment is needed to confront two issues currently prohibiting the nationwide advancement of agreements under INA section 287(G). This is a provision in the Immigration Code that provides for cooperative agreements to be entered into—it is a section that is not being adequately utilized.

First, there is a lack of Department of Homeland Security personnel tasked with negotiating and overseeing the entry into 287(G) training agreements with the States. There is also a shortage of DHS resources and trainers to conduct State and local training courses in a timely manner, including annual refresher courses for States

such as Alabama that have already entered into 287(G) MOU.

Second, States that enter into MOUs must currently absorb the cost related to pulling their law enforcement officers off duty and sending them to an intensive 5- to 6-week training course. They are extensively trained under these agreements. If a State does not have the money to pay for these extended leaves of absence or to hire replacements for the law enforcement officers wanting to receive immigration enforcement training, then costs related to the training under the MOU can prohibit States from being able to participate.

If costs are prohibitive, many States will simply choose to go forward in the realm of immigration law enforcement either without training, or generally not participate in any meaningful way.

Immigration training for State and local officers is important to many of my colleagues. I hope they will recognize that this amendment is the way to show their support for such training.

In the realm of immigration law enforcement, the State of Alabama struggled for years to achieve effective cooperation between Federal enforcement entities and our State and local law enforcement officers. All too often I heard the same story from our Alabama sheriffs and police chiefs: We call Immigration and Naturalization Service when we arrest an illegal alien, and they say they do not have the time to pick them up. They tell us to let them go. They have told me, on occasion, that INS told local officers unless they had 15 or 18 individuals at one time, don't bother to call them.

As a result, Alabama requested that additional Federal immigration agents be assigned to the State, Alabama advocated that extra immigration detention bedspace be established in the state, and Alabama requested the Immigration and Naturalization Service be responsive to requests that illegal aliens be taken into Federal custody. Though some progress was made, most of the requests were only partially met, at best.

To address the problems, I arranged for an Immigration and Customs enforcement officer to travel to the State of Alabama for 2 weeks to train all of our State troopers on cooperation with the Federal Government in the enforcement of Federal immigration laws. State troopers reviewed fake documents, were taught about different categories of aliens, legal and illegal, and were shown how to use a computer database at the Law Enforcement Support Center (LESC), a database that had been used only three times in the State of Alabama the year before the training because the officers simply did not know how to use it.

In September of 2003, Alabama followed in the footsteps of the State of Florida and became the second State in the Nation to enter into an INA 287(G) agreement with the Federal Government. This law has been on the books

for over a decade, but was not used until after 9-11. It is a tragedy we fail to take now advantage of the opportunity this law provides. That agreement allowed for a select group of 21 Alabama State troopers to receive extensive immigration enforcement training and gave them the authority to perform immigration and enforcement functions which resulted in their active communication with the Federal immigration agents stationed in the State—these agreements ought to be done routinely in every State in America.

After the MOU was negotiated and signed, the Department of Homeland Security sent personnel to Alabama to train the first class for a 5-week period. I thought 2 weeks was more than sufficient to my way of thinking. A deputy sheriff or city police officer can arrest a Senator for committing crimes in his community, but I suppose we have to have a 5-week training before they can arrest somebody who is not a citizen for violation of our immigration laws.

They were trained in how to identify fraudulent immigration documents, and in how to work together with federal agents to enforce immigration laws. I strongly believe that the MOU has been the most important step in Alabama in the realm of immigration enforcement. As a result of the MOU, Alabama State troopers have performed close to 200 criminal and illegal alien apprehensions, largely of aliens involved with document fraud, drug trafficking, and human smuggling, and have seized close to \$750,000 in drug, document and human trafficking related cash.

Because of the MOU, new Federal immigration agents have been assigned to the State of Alabama, dramatically increasing the Federal immigration enforcement presence in the State. This February, DHS announced the Alabama MOU would not only be continued but would be expanded, a second class of 25 State troopers is scheduled to be trained by DHS this October. The MOU Alabama entered into has added to the knowledge and resources available to Alabama's Department of Public Safety and has changed the level of cooperation we receive from the Federal immigration enforcement entities on a daily basis.

I am certain the State of Alabama will seek to continue the agreement for many years to come. I am hopeful other States will follow the lead of Alabama so that they, too, can benefit from the cooperative partnerships fostered by 287(G) MOUs.

Why is this important? It is important for one reason. We have just over 2,000 federal agents nationwide who are not on the borders of our country and charged with the responsibility of apprehending and enforcing immigration laws throughout the heartland of America.

There is no way those 2,000 officers can ever adequately patrol our streets for immigration violators and do a

good job of handling these problems. But we have 750,000 State and local law enforcement officers who are on our streets and in our communities every single day, apprehending people for DUIs, apprehending people during fights, apprehending people for other activities that bring them to the notice of law enforcement. In the course of that, they often discover these people are here illegally. They, as a result, should be subject to the enforcement of immigration laws by the State and local officers that discover them. If we have any respect for law in this country at all that is what should happen, but that is not occurring.

So how do we get to that point? They tell us they have to have all this training to be qualified. OK, let's give them training. I do not know that we need a full 5 weeks for every officer out there, but I think it is quite helpful that some of these officers have a good and sincere training to be more effective. If we train them and clarify their authority, we will have thousands of new officers patrolling our streets all over America at no cost to the Federal Government, watching out on our streets and in our communities for those who violate our laws. That is what we ought to be doing if we are serious at all about enforcing the laws of this country. I think the American people are. I think those of us in Congress need to get serious about it.

I think MOUs under 287(G) of the INA are a good place to start and need to be expanded. Under these MOUs, officers receive good training. The program creates good cooperation between local law enforcement and Federal agents. They learn how each others' systems work, and they develop memoranda as to what will happen if somebody is apprehended, whom they should call, how they should be detained, how long they should be detained, where they should be taken, and who is going to be compensated for that effort.

In conclusion, I think this amendment will make it financially attractive for more States to participate in these agreements. After all, they are helping enforce Federal immigration law. Why shouldn't we assist them in paying for the training we want them to receive? State and local police forces can make a difference in these efforts. I am excited we will perhaps be moving forward with this amendment. It will make a big difference.

I understand the managers are not here tonight and will not call up the amendment or attempt to do so, but I have talked with the manager and, hopefully, we can make some progress on that.

Mr. President, I will share briefly that also tomorrow I expect to call up the S. 629, the mass transportation bill I have offered and believe strongly in. We had a hearing on it in the Judiciary Committee. I will seek unanimous consent to call up and to adopt S. 629. I understand there may be an objection. There is not an objection on the Repub-

lican side. There may be an objection on the Democratic side, although it did come out of our Judiciary Committee with bipartisan support. I am hopeful we can move this important bill forward.

We have seen now in Spain and in London that there are people who desire to attack our mass transit transportation systems. What the Department of Justice tells us is that we have gaps and loopholes in our current laws that deal with those that would attack our mass transit systems, and that those laws need to be tightened up. If we do so, it will help the investigators and prosecutors be more effective in prosecuting those who may seek to do us harm.

I think it is time to move on that legislation. After all, we have been working on it for over a year. I think everybody has had good opportunity to review it. I think it is in every way professional and fair and ought to be passed. I look forward to moving it. If there is some objection from Members, and they would like to share that with me, perhaps we can solve those difficulties and reach an accord and move this important piece of legislation forward. We absolutely do not need to have an attack on our mass transportation system in America and not have the tools for our prosecutors and investigators to prosecute it adequately. That bill, as I noted, the mass transportation bill, is S. 629. It is not an amendment to the appropriations bill on the floor tomorrow, but a piece of legislation that I expect to be offering.

Finally, Mr. President, I will also be offering tomorrow and would be calling up an amendment to this appropriations bill that deals with making sure our Federal officials enter into the National Crime Information Center the names and identifying factors of people who have absconded after having been arrested for illegal immigration. That amendment is S.A. 1139.

We have hundreds of thousands of absconders, people who have been apprehended in our country for being here illegally. Amazingly, this is what happens: They are apprehended, they are given a date for a deportation hearing, and they are released on bail prior to that hearing. Or sometimes they have the hearing and are to be deported on a given date, and they are released on bail at that time, with the order to show up for deportation.

For those who have been ordered deported and released on bail, to show up for deportation, we now have learned that over 87 percent of them do not show up to be deported and in some counties over 90 percent never show up for their initial hearings, these percentages really make a mockery of the law. It has to be discouraging to the agents who have gone out and worked these cases, just to see them released on bail, and nobody even enters their names in the National Crime Information Center database.

What is the National Crime Information Center database? This is the database that every police officer in America accesses when they apprehend someone to see if the person is wanted anywhere in the country. If you had a DUI in Washington State, and you did not show up for your trial, and they catch you in Mobile, AL, and you are entered in the NCIC because of your DUI in Washington State, the officers in Mobile will hold you, and send you back to Washington State for your trial. But if you jump bail and do not show up for your immigration hearing or for your deportation proceeding, you are not treated the same way, your information is not currently being entered into the NCIC.

So I have been raising this and talking about it for quite some time now, and I have raised it with top officials in the Department of Homeland Security, and they say they are working on it and trying to enter the names faster. I know they as of December of last year they only had about 15,000 names entered into the Immigration Violators File of the NCIC which is really pathetically small. We ought to have them all of the absconder immigration violator files entered in there. This amendment would provide \$1 million to make sure those names are entered into the system.

Tomorrow we will proceed, hopefully, to call that amendment up and I will seek to have it made a part of the appropriations bill that is moving forward.

Mr. President, I thank the Chair for your time tonight.

#### ORDER OF BUSINESS

Mr. SESSIONS. Mr. President, I believe we have, on behalf of the majority leader, Senator FRIST, some closing remarks and matters.

#### MEASURE PLACED ON THE CALENDAR—S. 1382

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1382) to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

Mr. SESSIONS. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

#### MEASURE READ THE FIRST TIME—S. 1394

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1394) to reform the United Nations, and for other purposes.

Mr. SESSIONS. Mr. President, I ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

Mr. SMITH. Mr. President, I rise today to discuss the issue of United Nations reform. This year marks the 60th anniversary of the founding of the United Nations. As you know, the U.N. emerged from the ashes of the Second World War with a mandate to save succeeding generations from the scourge of war and to reaffirm faith in fundamental human rights and in the dignity and worth of human beings.

These basic principles embodied in the U.N. charter are still significant in today's changed strategic environment. Yet, the scandals and mismanagement that has engulfed the organization threaten both its reputation and its relevance.

These scandals have resulted in a consensus that the U.N. must be reformed. Three major reports have been released in the past 7 months, including one by Secretary-General Kofi Annan, that outline the need for specific reforms to make the U.N. more efficient, more accountable, more transparent, and more effective in responding to the challenges we face today. I am pleased to see that there is agreement on this need. Yet, I remind my colleagues that when the current Secretary-General took office in January 1997, he vowed to make the hard decisions necessary to reform the institution.

But 8½ years have gone by, and he has been unwilling or unable to do so. In fact, reprehensible dealings and scandalous behavior at the U.N. has continued unabated.

Furthermore, the U.N. budget has grown by leaps and bounds. Over the past 4 years, the U.N. regular budget has increased by more than \$1.1 billion over a 2-year period—from \$2.5 billion to \$3.6 billion.

The U.S. is handed a bill from the U.N. for 22 percent of the cost, and whether or not we agree with the way the U.N. spends its money, we are expected to pay. And this does not take into account the costs of peacekeeping operations, which are expected to be over \$5 billion this year alone.

The Constitution gives to Congress the power of the purse and as such, it is our duty to monitor how the American taxpayers' money is spent. In the case of the massive waste, fraud, and abuse at the U.N., we must take action to rectify an untenable situation.

As the recent report issued by the USIP Task Force on the United Nations said, "Americans are vested in a

United Nations that embodies values of honesty, decency, and fair play."

Yet, the U.N. is hardly a model for these basic values.

The appalling kickbacks, bribes, and financial mismanagement of the Oil-for-Food program are the most obvious illustration of an insufficient oversight system within the U.N. The design of the program and the failure of the U.N. to properly monitor it allowed Saddam Hussein to pocket billions of dollars in money that was meant for the Iraqi people suffering under his brutal regime.

Sexual exploitation and abuse by U.N. peacekeepers serving in missions around the world is an intolerable abuse of trust by those who are supposed to be contributing to a peaceful resolution to conflict situations.

Embezzlement and extravagant personal spending have been documented at U.N. programs such as UNICEF, the United Nations Development Programme, and the United Nations Conference on Trade and Development.

Countries such as Zimbabwe, Cuba, and Sudan—known violators of the basic human rights of their citizens—have been included as members of the U.N. Commission on Human Rights and have used their position to manipulate its agenda to prevent resolutions that condemn their human rights records.

If the U.N. does not act boldly, and act now, it will have little credibility to serve as an organization that promotes the values in its Charter. As a European diplomat told me recently, however, the U.N. is incapable of reforming itself. It is quite good at issuing reports, having meetings, appearing contrite, and then resolutely promising to change when news reports publicize the details of the problems within the organization. But history has shown that U.S. leadership is critical to ensuring that meaningful reform is implemented at the U.N.

Last month, the House of Representatives passed comprehensive legislation that provides a framework for implementing U.N. reform. This effort was led by the Chairman of the House International Relations Committee, Mr. HYDE, who worked diligently to produce a responsible bill that addresses the need for serious, meaningful, and practical reform.

Today I am introducing this legislation in the Senate. I recognize that the method used in this bill to compel the U.N. to make these reforms may not be popular with some of my colleagues. But I feel that there is no other way to proceed.

This legislation requires that 50 percent of the U.S. contribution to the United Nations regular budget be withheld if specific reforms are not implemented. Before dismissing this approach, I urge my colleagues to examine the reforms mandated and the flexibility inherent in the legislation.

First, the reforms. Title I requires management and budgetary reforms to create a more streamlined, efficient,

and effective organization. It shifts funding mechanisms for 18 programs of the U.N. from the regular assessed budget to voluntarily funded programs in an effort to make these programs more accountable to those who fund them. It calls for budgetary practices that would allow us to measure the effectiveness and relevance of programs. And it creates an Independent Oversight Board, an Office of Ethics, and a Chief Operating Officer to increase the accountability of the U.N.

This Title also addresses the shameful anti-Semitism inherent in U.N. structures by calling for Israel to have a permanent seat in one of the regional groups, with all the accompanying rights and privileges. And it requires the State Department to review U.N. agencies that focus exclusively on the Palestinian agenda.

Title II deals with the human rights mandate of the U.N. It establishes basic criteria that member states must meet to be eligible to serve on U.N. human rights bodies and requires the U.N. entity that selects members on these bodies to abide by these criteria.

Title III mandates reforms of the International Atomic Energy Agency so that it can better focus on the key issues of nuclear safety and security, and nuclear verification activities.

Title IV calls for a review of U.N. peacekeeping operations and requires that the U.S. deny support for new or expanded missions until procedures are in place to prevent further sexual exploitation by U.N. peacekeepers.

These measures, including adopting a Code of Conduct for all personnel participating in these operations, and establishing a data base so that past abusers are not able to participate in future operations, have been specifically endorsed by the Secretary General's special advisor on sexual exploitation and abuse and should be in place by this summer. Yet it is incumbent upon us to ensure that they are not stalled by member states that don't see this tragic situation as a serious problem.

Title V puts forward ways to improve budget practices by requiring more details about the U.N. budget, including proposed increases, to be presented to Congress.

And finally Title VI provides the leverage.

If I could come up with a better way, I would pursue it wholeheartedly. But even the strongest supporters of the U.S.-U.N. relationship acknowledge that the only way the U.N. pays attention to calls for reform is when its budget is threatened. Experience has shown that the U.N. will institute needed improvements only when Congress threatens to withhold U.S. funding.

This is not meant to be draconian. These reforms, if implemented, will increase the credibility, the legitimacy, and the effectiveness of the U.N.

In fact, I want to underscore the importance I place on a United Nations

that can fulfill its core objective—to serve as an institution that supports the preservation of international peace and security. I feel this objective is at risk.

Finally, it is important to highlight the flexibility that is built into this legislation. It allows the administration 2 years to work with the U.N. to make these necessary reforms before the withholding provision is triggered. Even after 2 years, it does not insist that every one of the reforms be implemented, but allows an additional year for the U.N. to complete the job. If the U.N. adopts measures that achieve the same purpose as those outlined in this bill, it allows the full U.S. contribution to be expended. And if the U.N. chooses not to implement these needed reforms, the legislation authorizes the contributions that are withheld from expenditure to remain available until the U.N. acts.

In 1949, Dean Acheson said that the United States must work actively to make the United Nations an effective instrument of international cooperation. There is, and always will be, a role for America in ensuring that the U.N. lives up to the ideals of its charter. By pushing for these critical reforms, I believe that we can forge the U.N. into the effective instrument of international cooperation that we all hope it can be.

It is my belief that this legislation is the instrument to get the job done—to make the U.N. the organization that its founders envisioned 60 years ago.

I yield the floor.

#### CONTROLLED SUBSTANCES EXPORT REFORM ACT of 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1395 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1395) to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1395) was read the third time and passed, as follows:

S. 1395

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. REEXPORTATION OF CONTROLLED SUBSTANCES.

(a) SHORT TITLE.—This Act may be cited as the "Controlled Substances Export Reform Act of 2005".

(b) IN GENERAL.—Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end the following:

"(f) Notwithstanding subsections (a)(4) and (c)(3), the Attorney General may authorize any controlled substance that is in schedule I or II, or is a narcotic drug in schedule III or IV, to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

"(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the 'first country') and the country to which the controlled substance is exported from the first country (referred to in this subsection as the 'second country') are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

"(2) The first country and the second country have each instituted and maintain, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

"(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

"(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that—

"(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

"(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

"(5) The controlled substance will not be exported from the second country.

"(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred.

"(7) A permit to export the controlled substance from the United States has been issued by the Attorney General."

#### GOOD FRIDAY AGREEMENT OF 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Res. 173 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 173) expressing support for the Good Friday Agreement of 1998 as the blueprint for lasting peace in Northern Ireland.

There being no objection, the Senate proceeded to consider the resolution.



Mr. KENNEDY. Mr. President, I urge my colleagues to support S. Res. 173, which Senators COLLINS, DODD, MCCAIN, BIDEN, LEAHY and I introduced to express support for the 1998 Good Friday Agreement as the blueprint for lasting peace in Northern Ireland. All of us are hopeful that a constructive way forward will be found, and the best way to do so is by continuing to implement the Good Friday Agreement.

The 1998 Agreement was endorsed in a referendum by the overwhelming majority of people in Northern Ireland and the Republic of Ireland. The parties to the Agreement made a clear commitment to "partnership, equality, and mutual respect" as the basis for moving forward to end the long-standing conflict and achieve lasting peace for all the people of Northern Ireland. The parties affirmed their "total and absolute commitment to exclusively democratic and peaceful means" to achieve the goal of peace.

Our resolution reiterates our support for the Good Friday Agreement as the way forward in Northern Ireland. It rejects the statement of Democratic Unionist leader Ian Paisley, who said in May that the Agreement "should be given a reasonable burial." Inclusive power sharing based on the defining qualities of the Agreement is essential to the viability and success of the peace process.

The resolution calls on the Irish Republican Army to immediately complete the process of decommissioning, cease to exist as a paramilitary organization, and end its involvement in any way in paramilitary and criminal activity. We know that discussion of the issue is underway within the IRA, and we all await a final, positive, and decisive action.

In addition, the resolution calls on the Democratic Unionist Party in Northern Ireland to share power with all the other parties, according to the democratic mandate of the Good Friday Agreement, and commit to work in good faith with all the institutions established under the Agreement, including the Executive and the North-South Ministerial Council, for the benefit of all the people of Northern Ireland.

It calls on Sinn Fein to work in good faith with the police service of Northern Ireland.

It also calls for justice in the case of Robert McCartney, the Belfast citizen who was brutally murdered there in January.

Finally, the resolution calls on the British Government to permanently restore the democratic institutions of Northern Ireland, complete the process of demilitarization in Northern Ireland, and advance equality and human rights in Northern Ireland.

The United States Government continues to strongly support the peace process in Northern Ireland. The Government of the United Kingdom and the Government of Ireland continue to strongly support the Good Friday Agreement as the way forward.

The Good Friday Agreement is the only way forward in Northern Ireland, and it deserves our strong support. I urge my colleagues to approve this resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 173) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 173

Whereas in 1998, the Good Friday Agreement, signed on April 10, 1998, in Belfast, was endorsed in a referendum by the overwhelming majority of people in Northern Ireland;

Whereas the parties to the Good Friday Agreement made a clear commitment to "partnership, equality, and mutual respect" as the basis for moving forward in pursuit of lasting peace in Northern Ireland;

Whereas the parties to the Good Friday Agreement also affirmed their "total and absolute commitment to exclusively democratic and peaceful means" in pursuit of lasting peace in Northern Ireland;

Whereas inclusive power-sharing based on these defining qualities is essential to the viability and advancement of the democratic process in Northern Ireland;

Whereas paramilitary and criminal activity in a democratic society undermines the trust and confidence that are essential in a political system based on inclusive power-sharing in Northern Ireland;

Whereas the United States Government continues to strongly support the peace process in Northern Ireland; and

Whereas the Government of the United Kingdom and the Government of Ireland continue to strongly support the Good Friday Agreement as the way forward in the peace process, and have committed themselves to its implementation: Now, therefore, be it

*Resolved*, That—

(1) the Senate reiterates its support for the Good Friday Agreement, signed on April 10, 1998, in Belfast, as the blueprint for a lasting peace in Northern Ireland; and

(2) it is the sense of the Senate that—

(A) the Irish Republican Army must immediately—

(i) complete the process of decommissioning;

(ii) cease to exist as a paramilitary organization; and

(iii) end its involvement in any way in paramilitary and criminal activity;

(B) the Democratic Unionist Party in Northern Ireland must—

(i) share power with all parties according to the democratic mandate of the Good Friday Agreement; and

(ii) commit to work in good faith with all the institutions of the Good Friday Agreement, which established an inclusive Executive and the North-South Ministerial Council, for the benefit of all the people of Northern Ireland;

(C) Sinn Fein must work in good faith with the Police Service of Northern Ireland;

(D) the leadership of Sinn Fein must insist that those responsible for the murder of Robert McCartney and those who were witnesses to the murder—

(i) cooperate directly with the Police Service of Northern Ireland; and

(ii) be protected fully from any retaliation by the Irish Republican Army; and

(E) the Government of the United Kingdom must—

(i) permanently restore the democratic institutions of Northern Ireland;

(ii) complete the process of demilitarization in Northern Ireland; and

(iii) advance equality and human rights agendas in Northern Ireland.

#### PERMITTING THE EXECUTIVE DIRECTORS, DEPUTY EXECUTIVE DIRECTORS, AND GENERAL COUNSEL OF THE OFFICE OF COMPLIANCE TO SERVE ONE ADDITIONAL TERM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3071, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3071) to permit individuals currently serving as Executive Directors, Deputy Executive Director, and General Counsel of the Office of Compliance to serve one additional term.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3071) was read the third time and passed.

#### ADDITIONAL COSPONSOR—S. 629

Mr. SESSIONS. Mr. President, I ask unanimous consent that Senator BUNNING be added as a cosponsor to S. 629, the Railroad Carriers and Mass Transportation Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR THURSDAY, JULY 14, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, July 14. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the Homeland Security appropriations bill; provided that the time until 10 a.m. be equally divided between the two leaders or their designees, and that at 10 a.m., the Senate proceed to the series of stacked votes, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. SESSIONS. Mr. President, tomorrow, the Senate will resume consideration of the Homeland Security bill. Under a previous order, at 10 a.m., the Senate will proceed to a series of votes on five pending amendments to the bill.

Following those votes, we will continue working through the remaining

amendments. There are currently a dozen pending amendments, and more are expected to be offered tomorrow.

We will complete action on the bill this week. Therefore, Senators should expect a very busy day with votes throughout.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:44 p.m., adjourned until Thursday, July 14, 2005, at 9:30 a.m.